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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Maximum Allowable 7(a) Fixed Interest Rates

AGENCY: U.S. Small Business Administration.

ACTION: Notification announcing the maximum allowable 7(a) loan fixed interest rates.

SUMMARY: This document announces the maximum allowable fixed interest rates for 7(a) guaranteed loans, except for Export Working Capital (EWCP) Loans.

DATES: This action is effective August 1, 2022.

FOR FURTHER INFORMATION CONTACT: Ginger Allen, Chief, 7(a) Loan Policy Division, Office of Financial Assistance, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; telephone: (202) 205–7110; email: *ginger.allen@sba.gov;* or the Lender Relations Specialist in the local Small Business Administration (SBA) District Office. The local SBA District Office may be found at *https://www.sba.gov/tools/local-assistance/districtoffices.* The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION: Agency regulations at 13 CFR 120.213(a), Fixed Rates for Guaranteed Loans, state that ''[a] loan may have a reasonable fixed interest rate. SBA periodically publishes the maximum allowable rate in the **Federal Register**.''

On November 6, 2018, SBA published a **Federal Register** Notice (83 FR 55478) establishing that the maximum allowable fixed interest rate for 7(a) loans (including SBA Express and Export Express loans, and excluding Export Working Capital Program (EWCP) loans) was the Fixed Base Rate, plus a maximum allowable spread based on the term of the loan, plus an additional spread for loans $50,000 or less as provided in 13 CFR 120.215. The 2018 notice states that maximum allowable fixed rates are 600 basis points for loans of $25,000 or less plus the 200 basis points permitted by 13 CFR 120.215; 600 basis points for loans over $25,000 but not exceeding $50,000, plus the 100 basis points permitted by 13 CFR 120.215; 600 basis points for loans greater than $50,000 up to and including $250,000; or 500 basis points for loans over $250,000.

On June 30, 2022, SBA published in the **Federal Register** the final rule ''*Regulatory Reform Initiative: Streamlining and Modernizing the 7(a), Microloan, and 504 Loan Programs To Reduce Unnecessary Regulatory Burden*'' (87 FR 38900), effective August 1, 2022. In this final rule, SBA removed or revised various regulations governing the agency's business loan programs that were considered obsolete, unnecessary, ineffective, or burdensome. One of the regulations removed, 13 CFR 120.215, *What interest rates apply to smaller loans?,* was used as a basis for the maximum allowable fixed interest rates for 7(a) loans of $50,000 and less. The removal of 13 CFR 120.215 does not affect the maximum 7(a) interest rates because the regulation at 13 CFR 120.215 was in effect when the FRN was published. However, to avoid confusion in the lending industry, SBA is publishing this document to confirm the method for calculating maximum allowable fixed interest rates for 7(a) loans (including fixed rate SBA Express and Export Express loans, and fixed rate loans made under the Community Advantage Pilot Program, but excluding EWCP loans).

SBA is updating the allowable fixed interest rates for loans of $50,000 and less by removing the language referencing the additional spread permitted by 13 CFR 120.215 and stating that the allowable spread for fixed rate 7(a) loans of $25,000 and less is 800 basis points and the allowable spread for fixed rate 7(a) loans of more than $25,000 but not exceeding $50,000 is 700 basis points. The maximum allowable fixed interest rates for 7(a) loans of more than $50,000 remain unchanged.

The interest rates set forth in this document are applicable to all 7(a) fixed rate loans (including SBA Express and Export Express loans, and loans made under the Community Advantage Pilot Program), except EWCP [1] loans. This document does not affect the allowable base rates used for variable rate loans as described in 13 CFR 120.214(c) as revised in 87 FR 38900.

Effective August 1, 2022, for any complete 7(a) loan application received by SBA or any request for an SBA Loan Number submitted by a Lender under its delegated authority (including fixed rate SBA Express and Export Express loans, and fixed rate loans made under the Community Advantage Pilot Program), except EWCP loans, the maximum allowable fixed interest rate will be the Prime rate in effect on the first business day of the month plus:

(i) 800 basis points for loans of $25,000 or less;

(ii) 700 basis points for loans over $25,000 but not exceeding $50,000;

(iii) 600 basis points for loans greater than $50,000, up to and including $250,000; or

(iv) 500 basis points for loans over $250,000.

Future revisions to the maximum allowable fixed interest rate for 7(a) guaranteed loans will be published periodically by SBA in the **Federal Register** and posted monthly on SBA's website at *https://catran.sba.gov/ftadistapps/ftawiki/downloadsandresources.cfm.*

Authority: 15 U.S.C. 636(a)(4)(A) and 13 CFR 120.213.

John Miller,

Deputy Associate Administrator, Office of Capital Access.

[FR Doc. 2022–16162 Filed 7–29–22; 8:45 am]

BILLING CODE 8026–03–P

[1] In accordance with 13 CFR 120.344(c), ''SBA does not prescribe the interest rates for the EWCP but will monitor these rates for reasonableness.''

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[[Docket ID: DOD–2020–HA–0091]

RIN 0720–AB84

Enrollment Fee and Cost Sharing Under TRICARE Prime and Select for Retirees and Their Dependents

AGENCY: Department of Defense.

ACTION: Interim final rule.

SUMMARY: This interim final rule (IFR) accompanies the in-progress implementation of section 702 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA–2020) as an administrative measure not intended to affect or grant rights. The law mandates that retirees and their dependents pay TRICARE premiums via allotment from military retired/retainer pay to the maximum extent practicable instead of credit card or electronic funds transfer (EFT), applicable to health care coverage beginning on or after January 1, 2021. In conforming the regulation to the mandatory statutory changes, this IFR improves TRICARE by reflecting the simplification and automation of premium fee collection.

DATES: This rule is effective August 1, 2022. Comments must be received by September 30, 2022.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Zelly Zim, Defense Health Agency, TRICARE Health Plan, (703) 275–6221, *zelly.l.zim.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Rule

This rule is required as a ''housekeeping matter'' to support the in-progress implementation of section 702 of NDAA–2020. In implementing section 702 of NDAA–2020, this rule advances two major components of the Military Health System's aims: better care and lower cost. The objective of better care is advanced by reducing the recurring administrative hurdle of credit card and electronic funds transfer (EFT) draft payments by pulling these premiums directly from monthly retired/retainer pay. These consistent payments, now conditioned (to the maximum extent practicable) on a recurring government process, ensure consistent access to care. The goal of lower cost is achieved by direct monetary savings to the government.

B. Interim Final Rule Justification

This rule must be issued prior to receiving public comment in order to comply with statutory mandates regarding effective dates of changes to TRICARE. The implementation date dictated by NDAA–2020 intended this regulation be in place no later than TRICARE Open Season for calendar year (CY) 2021 (November 9, 2020 through December 14, 2020) to correspond implementation no earlier than January 1, 2021. Beneficiaries will receive letters and electronic communication from their private sector care contractors in conjunction with DHA Strategic Communication (STRATCOM) before any changes are requested to their payment methods. In view of these statutory effective dates, the Department finds obtaining public comment in advance of implementing this rule is impracticable, unnecessary, and contrary to the public interest. Nonetheless, DoD invites public comments on this rule and is committed to considering all comments and issuing a final rule as soon as practicable.

C. Summary of Major Provisions

The rule amends the current regulation to conform it to the amended law, as written, that designates payment options for retirees and their dependents. The major provisions of the IFR are:

(1) That premiums must be paid through allotment (*i.e.,* withheld from a retiree's retired/retainer pay), to the maximum extent practicable, by members and former members of the uniformed services, or a dependent thereof, eligible for medical care and dental care under section 1074(b) or 1076 of Title 10, chapter 55. This is to streamline payments, reduce fees from other payment methods, and ensure continued delivery of care.

(2) That when payment through allotment is not practicable, premiums shall be paid in a frequency and method determined by the Secretary.

(3) That the payment of enrollment fees or premiums by allotment should be implemented and apply to health care coverage beginning on or after January 1, 2021.

This rule only amends the Code of Federal Regulations (CFR) language to reflect these provisions.

D. Legal Authority for This Program

The statutory authority for this IFR is the Public Law 116–92, NDAA–20 Section 702, ''TRICARE Payment Options for Retirees and Their Dependents.''

The regulatory authority for this IFR is promulgated in 32 CFR 199.17, ''TRICARE program,'' which dictates enrollment fees to begin for TRICARE Select Group A on January 1, 2021 and can be found at *https://www.govinfo.gov/app/details/CRPT-114hrpt537/CRPT-114hrpt537.* The legal authority for this rule also includes 10 U.S.C. chapter 55, ''Medical and Dental Care,'' which covers the entire program of medical and dental care for uniformed services members, former members and their dependents. Chapter 55 can be accessed via *https://uscode.house.gov.*

II. Regulatory History

This rule, title 32 CFR 199.17(o)(3), was codified in 1998 implementing 10 U.S.C. 1097a(c), ''TRICARE Prime: automatic enrollments,'' where payment by allotment for retirees and their beneficiaries was listed as voluntary. Under 10 U.S.C. 1097a(c) fees could also be paid from a financial institution through EFT. Title 32 CFR 199.17(o)(3) was most recently updated on February 15, 2019 (84 FR 4326) by a final rule that continued to implement the statutory options for voluntary allotments or EFT payments of installment payments of enrollment fees under 10 U.S.C. 1097a(c); which options have been eliminated by Section 702(b)(1) of NDAA–2020.

III. Regulatory Analysis

A. Regulatory Planning and Review

a. Executive Orders

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches to maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated non-significant under these Executive Orders and accordingly has not been reviewed by the Office of Management and Budget (OMB).

b. Summary

The rule amends the current regulation to conform to Section 702 of NDAA–2020 (as codified in 10 U.S.C. 1097a) that outlines payment options for retirees and their dependents by mandating payment withheld from retired/retainer pay where feasible, rather than allowing payment method and frequency to be voluntary. According to NDAA–2020, enrollment fees or premiums for this population must be paid in this manner beginning on or after January 1, 2021. The changes made by this rule are housekeeping edits for 32 CFR, and the statutory execution has been initiated.

c. Affected Population

This rulemaking action will apply to an estimated 611,734 beneficiaries: a member or former member of the Uniformed Services, or their dependents, eligible for medical and dental care under sections 1074(b) or 1076 of 10 U.S.C. chapter 55. These specific beneficiaries will be required to pay enrollment or premiums for their healthcare and must do so by allotment to the maximum extent practicable, as specified by the new payment options provisions. They will be required to access *https://tricare.mil* to receive specific instructions from their private sector care TRICARE contractor on allotment set up. These updates must be made no later than the end of the TRICARE open enrollment period before the allotments are to take effect, with specific cutoff dates to be messaged by their private sector care contractor. The affected population will receive notification of this change and the actions needed to be in compliance via letters and electronic correspondence managed jointly by DHA Strategic Communication (STRATCOM) and their private sector care contractors. If beneficiaries targeted by this rule already pay their enrollment fees or premiums by allotment, no further action needs to be taken to be in compliance.

d. Costs

It is determined that this rulemaking action will have a cost saving to both the government and the private sector. As it currently stands, the Government reimburses the TRICARE contractors approximately 3 million dollars annually on $169,423,439.34 in transactions (TRICARE enrollment fees and premiums costs) due to credit card and electronic funds transfer (EFT) processing fees charged by credit card companies and banking institutions. The 3 million dollar cost savings is all from government costs (processing fees). The private sector costs for implementing this rule only applies to those currently paying by credit card or EFT, and this cost is in the form of beneficiary time: initial action must be taken to set up the allotment process and it must be done in time to ensure the first allotted payment is received prior to January 1 of the enrollment year. Approximately 872,886 beneficiaries would need to undergo this process, which equates to approximately 332,469 separate households. These numbers are based on the fact that about 40 percent of enrolled retiree beneficiaries currently pay by credit card or EFT.

The remaining 60 percent of enrolled retiree beneficiaries already pay by allotment. Anticipating the transaction to take 15 minutes, and using $9.14/hour (national average of minimum wages effective January 1, 2020) as the value of a beneficiary's time, switching to payment by allotment would cost each beneficiary household $2.29. The time estimate of 15 minutes is drawn from 2019 data on the length of enrollment phone calls for a pool of 1.5 million beneficiaries. Thus, the total private cost of implementing this rule is $761,354 (which is $2.29 per household). However, by paying enrollment fees or premiums by allotment, the likelihood of breaks in coverage and additional fees due to transaction failures is drastically reduced for the beneficiary. For example, in CY 2018, approximately 2,850 TRICARE Prime plans terminated in the East Region for failure to pay retiree enrollment fees due to EFT or debit/credit card issues. Considering parallel trends seen in the West Region, it can be inferred that the one-time $2.29 (time) private cost of complying with this interim final rule is preferable to loss of coverage or termination.

Time constraints to implement this rule is a public cost to the TRICARE private sector care contractors, yet this burden is monetarily covered by the administrative cost of this rule, which acknowledges the fact that the systems need to set up allotments for beneficiaries are already in place and must be expanded to prepare for an influx of beneficiary calls and allotment arrangements.

e. Benefits

Having enrollment fees or premiums from retirees and their dependents paid via allotment increases access to care by preventing gaps in coverage, ensuring beneficiaries receive the care for which they are entitled and guaranteeing the government is doing everything possible to provide the health care entitlement. In this case, gaps in coverage are caused by late or missed payments, which are more likely when beneficiaries pay TRICARE enrollment fees or premiums by credit card or EFT without these methods being automated. It is estimated that about 40 percent of retired beneficiaries pay by credit card or EFT, and the projected private benefit would be directly to them. On the private side, The TRICARE contractors also benefit from the rulemaking action through the streamlined management of fees. The automated systems to be used to implement this rule are already in use for approximately 60 percent of the retiree-beneficiary population.

f. Alternatives

Baseline: No Action

Not implementing this rule would be in direct violation of the law set forth in NDAA–2020 requiring payment by allotment for beneficiaries covered by 10 U.S.C. 1074(b) or 1076 beginning on or after January 1, 2021. System changes, contract updates, and beneficiary notifications supporting the law are already in place. The result of taking no action would be continued cost to the government in the form of credit card and EFT fees, with a significant increase to the projected cost due to the approximately 500,000 additional households from which enrollment fees were collected as of January 1, 2021 (due to the start of TRICARE Select Group A enrollment fee collection). Taking no action fails to mitigate the EFT and credit card-related

costs and complexities for this additional group of beneficiaries that largely have never paid an enrollment fee for their TRICARE coverage before and the need to re-evaluate and cancel all changes already in place to support the statutory requirements of payment by allotment. Cost to beneficiaries would be the possible loss of coverage and related fees as a result of missed payments. For the East Region in CY 2018, approximately 2,850 TRICARE Prime plans terminated for failure to pay retiree enrollment fees were attributable to EFT or debit/credit card issues. Similar numbers were experienced in the West Region, and these numbers can be expected to increase with the additional enrollment fees that began January 1, 2021. Thus, there is no benefit to taking no action and the Department has no discretion to counter the laws requiring this rulemaking action.

Alternative Actions

No alternative courses of action are applicable and legally suitable. The statue is self-implementing and the rulemaking only effects the effective date that the regulation conforms with the law. The Agency has no authority to postpone implementation of mandatory statue.

B. Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Office of the Assistant Secretary of Defense for Health Affairs certifies that this interim final rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

C. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. DoD will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This interim final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

D. Sec. 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. This interim final rule will not mandate any requirements for State, local, or tribal governments, nor will affect private sector costs.

E. Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35) It has been determined that this rule does not impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. Existing information collection requirements of the TRICARE program will be utilized, using a DD Form 2896–1, Reserve Component Health Coverage Request Form. This enrollment form, accessible through the Beneficiary Web Enrollment (BWE) website, does not meet information collection requirements and thus not targeted by the Paperwork Reduction Act or governed by an OMB license.

F. Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements an agency must meet when it promulgates an interim final rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This interim final rule will not have a substantial effect on State and local governments.

G. Executive Order 13175, ''Consultation and Coordination With Indian Tribal Governments''

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates an interim final rule (and subsequent final rule) that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the federal government and Indian tribes. This interim final rule will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 199

Administrative practice and procedure, Claims, Dental health, Fraud, Health care, Health insurance, and Military personnel.

Accordingly 32 CFR part 199 is amended to read as follows:

PART 199—CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

■ 1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Amend § 199.17 by revising paragraph (l)(2)(i)(A) to read as follows:

§ 199.17 TRICARE program.

* * * * *

(l) * * *

(2) * * *

(i) * * *

(A) The enrollment fee in calendar years 2018 through 2020 is zero and the catastrophic cap is as provided in 10 U.S.C. 1079 or 1086. The enrollment fee and catastrophic cap in 2021 and thereafter for certain beneficiaries in the retired category is as provided in 10 U.S.C. 1075(e), except the enrollment fee and catastrophic cap adjustment shall not apply to survivors of active duty deceased sponsors and medically retired Uniformed Services members and their dependents. Payment of TRICARE premiums and enrollment fees will be withheld from the retired, retainer or equivalent pay of these beneficiaries in the retired category to the maximum extent practicable upon complete implementation of this rule and thereafter. Appropriate processes to require and manage these allotments, to include frequency and method, as well as alternatives when allotments are not practicable, shall be determined by the Director, DHA. An exception may be made for certain survivors of active duty deceased sponsors and medically retired Uniformed Services members and their dependents, for which the enrollment fee and catastrophic cap adjustments shall not apply.

* * * * *

Dated: July 26, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–16332 Filed 7–29–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0591]

RIN 1625–AA00

Safety Zone; MM. 190–192, Cumberland River, Nashville, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Cumberland River from mile marker (MM) 190 to 192. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by Music City Grand Prix Fireworks Show. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective 9 p.m. through 11 p.m. on August 6, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0591 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Third Class Benjamin Gardner, Marine Safety Detatchment Nashville, U.S. Coast Guard; telephone 615–736–5421, email, *Benjamin.T.Gardner@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
MM Mile marker
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone on August 6, 2022 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because action is needed on August 6, 2022 to ensure the safety of spectators and vessels during the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Music City Grand Prix Fireworks Show starting August 6, 2022, will be a safety concern for anyone within mile marker 190 to 192 on the Tennessee River. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the firework display.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 09:00 p.m. until 11:00 p.m. on August 6, 2022. The safety zone will cover all navigable waters between Mile Markers 190 to 192 on the Cumberland River, extending the entire width of the river. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the fireworks display is occuring. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Ohio Valley.

Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone, enforcement period, as well as any changes in the dates and times of enforcement.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the event being held for 2 hours during the evening hours and only impacting 2 Miles of the Cumberland River.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business,

organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 2 hours that will prohibit entry from MM. 190 to 192 on the Cumberland River for the fireworks display. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination will be available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1., Revision No. 01.2.

■ 2. Add § 165.801–0591 to read as follows:

§ 165.T08–2022–0591 Safety Zone; Cumebrland River, Nashville, TN.

(a) *Location.* The following area is a safety zone: all navigable waters of the Cumberland River, Mile Markers 190 to 192, extending the entire width of the river.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section will be enforced from 9 p.m. to 11 p.m. on August 6, 2022.

Dated: July 25, 2022.

H.R. Mattern,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2022–16395 Filed 7–29–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE–2021–0005]

Elizabeth River, Naval Station Norfolk Deperming Station, Norfolk, VA; Restricted Area

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is establishing a restricted area in the waters of the Elizabeth River surrounding the Naval Station Norfolk (NSN) Lambert's Point Deperming Station in Norfolk, Virginia. Naval Station Norfolk is the home port of numerous ships and its facilities provide operational readiness support to the U.S. Atlantic Fleet. The deperming station is located within the waters of the Elizabeth River and it provides magnetic silencing services for military vessels. This deperming station is the only location capable of servicing an aircraft carrier and the only deperming facility on the east coast of the United States. The restricted area is necessary to protect underwater equipment, personnel, and vessels utilizing the facility by implementing a waterside security program. The regulation establishes the restricted area in waters surrounding the existing facility immediately adjacent to the channel into Norfolk Harbor.

DATES: Effective August 31, 2022.

ADDRESSES: U.S. Army Corps of Engineers, Attn: CECW–CO (David Olson), 441 G Street NW, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202–761–4922 or via email at *david.b.olson@usace.army.mil*.

SUPPLEMENTARY INFORMATION: The proposed rule was published in the October 8, 2021, edition of the **Federal Register** (86 FR 56236) and the *regulations.gov* docket number was COE–2021–0005. In response to the proposed rule, five comments were received.

One commenter said that no natural heritage resources, potential habitat for natural heritage resources, or state natural area preserves under the Virginia Department of Conservation and Recreation's jurisdiction were identified in the vicinity of the proposed restricted area. They also stated that the current activity will not affect any documented state-listed plants or insects. Another commenter stated that the proposed rule does not include any activities that will disturb Chesapeake Bay Preservation Areas. Therefore, no Chesapeake Bay Preservation Act requirements are relevant to the establishment of the restricted area. One commenter said that no public groundwater wells are located within one mile of the proposed restricted area and no surface water intakes are located within five miles of the proposed restricted area. This commenter also stated that the proposed restricted area is also not within the watershed of any public surface water intakes and there are no apparent impacts to public drinking water sources due to the establishment of this restricted area. Another commenter said that the proposed restricted area is outside of their agency's jurisdictional areas and they will not require a permit for the establishment of the restricted area.

One commenter expressed support for amending the federal regulations to include a restricted area around Lambert's Point Deperming Station. They said that the work performed at the deperming station is critical to the safety of the U.S. Naval Fleet, and the proposed restricted area is essential for its protection. This commenter referenced several federal regulations to support the Corps' authority and process to establish restricted areas to protect government assets, and stated that no further evaluation was warranted.

In response to a request by the United States Navy, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending its regulations at 33 CFR part 334 to add a permanent restricted area in the waters of the Elizabeth River surrounding the Naval Station Norfolk Lambert's Point Deperming Station in Norfolk, Virginia.

Procedural Requirements

a. *Regulatory Planning and Review.* This final rule is not a ''significant regulatory action'' under Executive Order 12866 (58 FR 51735, October 4, 1993) and it was not submitted to the Office of Management and Budget for review.

b. *Review Under the Regulatory Flexibility Act.* This final rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354). The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (*i.e.,* small businesses and small governments).

The Corps certifies under 5 U.S.C. 605(b) that this final rule would not have a significant economic impact on a substantial number of small entities. The restricted area is necessary for security of the deperming station. The restricted area is also necessary to protect underwater equipment, personnel, and vessels utilizing the facility by implementing a waterside security program. Small entities can utilize navigable waters outside of the restricted area. Only vessels authorized by the Commanding Officer, U.S. Naval Station, Norfolk, Virginia and/or other persons or agencies that he/she may designate may enter the restricted area, and some of these vessels may be operated by small entities.

This determination is based on the rules governing the restricted area, including the ability for vessel operators to obtain permission from the Commanding Officer, U.S. Naval Station, Norfolk, Virginia, and/or other persons or agencies as he/she may designate, to transit the restricted area. The Corps expects that the economic impact of the restricted area would have practically no impact on the public, any anticipated navigational hazard, or interference with existing waterway traffic. After considering the economic impacts of this restricted area regulation on small entities, I certify that this final rule would not have a significant impact on a substantial number of small entities.

c. Review under the National Environmental Policy Act. Due to the administrative nature of this action and because there is no intended change in the use of the area, the Corps has determined that the establishment of this restricted area regulation will not have a significant impact to the quality of the human environment and, therefore, the preparation of an environmental impact statement is not required. An environmental assessment has been prepared for this final rule. It may be reviewed at the Norfolk District office at 803 Front Street, Norfolk, Virginia 23510.

d. *Unfunded Mandates Act.* This final rule does not impose an enforceable duty among the private sector and, therefore, it is not a federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. The Corps has also found under Section 203 of the Act that small governments will not be significantly and uniquely affected by this rule.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.296 to read as follows:

§ 334.296 Elizabeth River, Deperming Station, Norfolk, VA, Restricted Area.

(a) *The area.* The waters within an area beginning at a point latitude 36°51′52″ N, longitude 76°20′04″ W; thence easterly to a point at latitude 36°51′52″ N, longitude 76°19′49″ W, thence northerly to latitude 36°52′06″ N, longitude 76°19′48″ W; thence northwesterly to latitude 36°52′12″ N, longitude 76°19′57″ W; thence northwesterly to a point at latitude 36°52′15″ N, longitude 76°19′59″ W; thence westerly to latitude 36°52′15″ N, longitude 76°20′04″ W, thence to the point of origin. The datum for these coordinates is WGS–84.

(b) *The regulations.* (1) No vessels other than vessels of the U.S. armed forces and other authorized vessels shall enter the restricted area. Other authorized vessels include vessels and personnel, including contractors and agents, acting on behalf of any federal or state agency or department performing specific work authorized as part of that agency's or department's statutory missions or to enforce their respective laws. Authorized vessels may enter anywhere in the restricted area at any time in the furtherance of their authorized operations. This includes, but is not limited to, vessels that are engaged in the following operations: law enforcement, servicing aids to navigation, and/or surveying, maintenance, or improvement of the federal navigational channel.

(2) There shall be no introduction of external magnetic field sources within the area.

(3) No person or vessel shall at any time, under any circumstances, anchor or fish or tow a drag of any kind in the restricted area due to the risk of damage to mission essential underwater equipment including an extensive cable system located therein.

(4) Orders and instructions issued by U.S. Navy patrol craft or other authorized representatives of the enforcing agency shall be carried out promptly by persons or vessels in or in the vicinity of the restricted area.

(c) *Enforcement.* The regulations in this section shall be enforced by the Commanding Officer, U.S. Naval Station, Norfolk, Virginia and such agencies as he/she may designate.

Thomas P. Smith,

Chief, P.E., Operations and Regulatory Division, Directorate of Civil Works.

[FR Doc. 2022–16377 Filed 7–29–22; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2021–0912; FRL–9613–02–R2]

Approval of Air Quality Implementation Plans; New Jersey; Removal of Excess Emissions Provision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Jersey, through the New Jersey Department of Environmental Protection, on December 14, 2017. The revision submitted by New Jersey was in response to a finding of substantial inadequacy and a SIP call published on June 12, 2015, for a provision in the New Jersey SIP related to excess emissions during startup, shutdown, and malfunction (SSM) events. The EPA is approving the SIP revision to correct the deficiency identified in the June 12, 2015, SIP call.

DATES: This final rule is effective on August 31, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2021–0912. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Edward J. Linky, EPA Region 2, 290 Broadway, 25th floor, New York, New York 10007–1866, 212–637–3764; or email *Linky.Edward@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' is used, it refers to EPA.

Table of Contents

I. What is the background for this action?

On April 22, 2022, we proposed to approve a SIP revision submitted by the State of New Jersey, through the New Jersey Department of Environmental Protection, on December 14, 2017. (87 FR 24090, April 22, 2022). In that proposal we also proposed to determine that the SIP revision corrects the deficiency with respect to New Jersey that we identified in our June 12, 2015, action entitled ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction'' (''June 12, 2015 SIP call'') (80 FR 33839, June 12, 2015). The reasons for our proposed approval and determination are stated in the proposed action (87 FR 24090) and will not be restated here.

II. What comments were received in response to this proposed action?

In response to the EPA's April 22, 2022, proposed rulemaking on New Jersey's SIP revisions, the EPA received one comment from the Sierra Club commending the EPA for proposing to approve New Jersey's revision and requesting a quick final approval of the SIP revision. The EPA acknowledges the supportive comment. The comment may be viewed under Docket ID Number EPA–R02–OAR–2021–0912 on the *regulations.gov* website.

III. What action is the EPA taking?

The EPA is approving New Jersey's December 14, 2017, request to approve a revised New Jersey Administrative Code, Title 7, Chapter 27, Subchapter 7.2(k) (N.J. Admin. Code 7:27–7.2(k)) which removes N.J. Admin. Code 7:27–7.2(k)(2) from the New Jersey SIP. EPA has also determined this SIP revision corrects the deficiency identified in the June 12, 2015 SIP call.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of N.J. Admin. Code 7:27–7 and N.J. Admin. Code 7:27–7.2(k), listed in the amendments to 40 CFR part 52 set forth below and described in paragraph I. of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the

provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 30, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Lisa Garcia,

Regional Administrator, Region 2.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart FF—New Jersey

■ 2. In § 52.1570, the table in paragraph (c) is amended by revising the entry for ''Title 7, Chapter 27, Subchapter 7'' and adding an entry in numerical order for ''Title 7, Chapter 27, Subchapter 7.2(k)'' to read as follows:

§ 52.1570 Identification of Plan.

* * * * *

(c) * * *

EPA-APPROVED NEW JERSEY STATE REGULATIONS AND LAWS

State citation	Title/subject	State effective date	EPA approval date	Comments
*	* *	*	* *	*
Title 7, Chapter 27, Subchapter 7.	Sulfur	March 1, 1967	May 31, 1972, 37 FR 10880.	Subchapter 7.2(k) is no longer approved due to EPA action on August 1, 2022, [insert **Federal Register** citation].
Title 7, Chapter 27, Subchapter 7.2(k).	Commercial fuel exemption.	November 6, 2017	August 1, 2022, [insert **Federal Register** citation].	
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[FR Doc. 2022–16317 Filed 7–29–22; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 87, No. 146
Monday, August 1, 2022

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25 and 121

[Docket No.: FAA–2022–0772; Notice No. 22–05]

RIN 2120–AL59

Installation and Operation of Flightdeck Installed Physical Secondary Barriers on Transport Category Airplanes in Part 121 Service

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposed rule would implement a mandate in the FAA Reauthorization Act of 2018 by requiring that certain airplanes used to conduct domestic, flag, or supplemental passenger-carrying operations have an installed physical secondary barrier that protects the flightdeck from unauthorized intrusion when the flightdeck door is opened.

DATES: Send comments on or before September 30, 2022.

ADDRESSES: Send comments identified by docket number FAA–2022–0772 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dan Jacquet, AIR–626, Human-Machine Interface Section, Technical Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198; telephone (206) 231–3208; email *Daniel.Jacquet@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is issued under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with prescribing regulations and minimum standards for the design and performance of aircraft that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

In addition, section 336, ''Secondary Cockpit Barriers,'' of the FAA Reauthorization Act of 2018, Public Law 115–254 (Oct. 5, 2018),[1] directs the Administrator of the FAA to issue an order requiring installation of a secondary flightdeck barrier on ''each new aircraft that is manufactured for delivery to a passenger air carrier in the United States operating under the provisions of part 121 of title 14, Code of Federal Regulations.''

I. Overview of Proposed Rule

This proposed rule would implement[2] Section 336 of the FAA Reauthorization Act of 2018 by proposing to require the installation and use of an installed physical secondary barrier (IPSB) that would be deployed (closed and locked) whenever the flightdeck door is opened while the airplane is in flight. The purpose of this IPSB would be to impede unauthorized access to the flightdeck. The IPSB would be required to resist intrusion and meet certain physical standards, but still permit line-of-sight visibility between the flightdeck door and the cabin.

This proposal would affect operators conducting passenger-carrying operations under 14 CFR part 121 with transport category airplanes operating in the United States by requiring the operators to use the IPSB, when installed, as part of their procedures for opening the flightdeck door. This proposed rule would apply to transport category airplanes manufactured two years after the effective date of a final rule.

II. Background

A. Congressional Mandate

On October 5, 2018, Congress enacted the FAA Reauthorization Act of 2018. Section 336 of the Act states:

(a) SHORT TITLE.—This section may be cited as the ''Saracini Aviation Safety Act of 2018.''

(b) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an order requiring installation of a secondary flightdeck barrier on each new aircraft that is manufactured for delivery to a passenger air carrier in the United States operating under the provisions of part 121.

B. History

Following the events of September 11, 2001, the FAA adopted standards for

[1] Referred to as ''the FAA Reauthorization Act of 2018'' in this rule.

[2] The FAA determined that an informal rulemaking proceeding under section 553 of the Administrative Procedure Act is appropriate to prospectively apply these requirements on certain newly-manufactured airplanes.

flightdeck security in January 2002 by adding 14 CFR 25.795 and amending § 121.313.[3] Those amendments were intended to make the flightdeck resistant to forcible intrusion and small firearms, and prevent unauthorized entry into the flightdeck. These requirements were based on International Civil Aviation Organization (ICAO) standards,[4] and recommendations of the Aviation Rulemaking Advisory Committee [5] (ARAC), which were developed by the Design for Security Harmonization Working Group. ARAC includes representatives of aircraft owners and operators, airmen and flight crewmembers, airports, aircraft maintenance providers, aircraft manufacturers, public citizen and passenger groups, training providers, and labor organizations.

Even a strong and secure flightdeck door, however, must occasionally be opened, in order to provide for necessary events such as lavatory breaks and meal service. Between the time of opening and closing the flightdeck door (door transition), the open flightdeck has some degree of vulnerability to attack. Such an attack could happen quickly, and arguably leave insufficient time for the cabin crew to react.

Therefore, in 2007, the FAA promulgated requirements [6] to address the security of the flightdeck when the flightdeck door was opened, however briefly. Specifically, the FAA adopted §§ 121.584 and 121.587 to require that the flightdeck door be locked when the airplane is in operation, unless it is necessary to open it to permit access by authorized persons, and require compliance with FAA-approved procedures for opening the door.

As a result of these new requirements, air carriers and type design holders developed various methods and designs, including use of crewmembers and equipment and, in limited cases, IPSBs,[7] to help secure the flightdeck during the period when the flightdeck door was open during flight. To provide guidance and recommendations for these different methods and designs, RTCA, Inc.[8] formed a committee to develop recommended procedures and standards for airplane secondary barriers. In 2011, RTCA produced DO–329, ''Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.'' DO–329 describes various means of addressing the times when the flightdeck door must be opened. In this context, these means can be combinations of people, procedures and/or equipment. The document does not recommend one of these means over another, but provides advice on the use of each one to meet the objective of a secure flightdeck. Subsequently and based on the RTCA's report, the FAA issued Advisory Circular (AC) 120–110, ''Aircraft Secondary Barriers and Alternate Flight Deck Security Procedures,'' in 2015. That AC references various means of compliance with § 121.584(a)(1), which prohibits the flightdeck door from being unlocked during flight unless the operator has an approved procedure and visual device to verify that the area outside the flightdeck door is secure.

C. ARAC Report

On June 20, 2019, to facilitate the implementation of the mandate in Section 336 to require secondary barriers on certain aircraft, the FAA tasked ARAC [9] to recommend standards for IPSB. The ARAC formed the Flightdeck Secondary Barrier Working Group, under the Transport Airplane and Engine Subcommittee, to carry out the tasks. The Working Group included representatives from manufacturers, air carriers, and pilot and flight attendant unions. On February 27, 2020, the Working Group submitted its ''Recommendation Report to Aviation Rulemaking Advisory Committee for Implementation of Section 336 of Public Law 115–254'' (the Report) [10] to ARAC. ARAC accepted the Report in March of 2020 and forwarded it to the FAA.[11]

The Report contained 21 recommendations, most of which were by consensus. This NPRM incorporates those consensus recommendations.[12] The Report included suggestions on the scope and potential cost of the requirement for IPSB, as well as the performance standards that the FAA should include in a proposed rule. The FAA carefully considered all recommendations and plans to address certain recommendations appropriately through guidance. The following summarized recommendations are pertinent to this regulatory proposal.

The Report recommended that:

—The FAA promulgate a part 25 design standard for IPSB to resist a 600-pound push load (toward the flightdeck), and a 250-pound pull load (away from the flightdeck), applied at certain critical locations.

—The FAA require these load requirements only to be static, rather than the more conservative dynamic, because the purpose of the IPSB is to delay access to the flightdeck door for only the time necessary for the door to be shut and locked.

—The IPSB be able to resist an intrusion attempt for five seconds, so as to provide a two-second margin above the expected three-second time needed to close and lock the flightdeck door.

—The FAA require the IPSB to be designed such that it would not be possible for a 50th percentile male to reach through the IPSB and grab an open flightdeck door.

—The IPSB be sufficiently transparent, whether through open space or transparent material, to provide situational awareness between the vestibule area (outside the flightdeck) and the passenger cabin, and that the FAA's design requirements for the IPSB account for human needs, that is, providing room for crew changes, meal service, etc.

—That the FAA take any actions needed for the IPSB to be certified to existing

[3] *Security Considerations in the Design of the Flightdeck on Transport Category Airplanes,* 67 FR 2117 (January 15, 2002).

[4] Adopted by Amendment 97 to Annex 8 to the Convention on International Civil Aviation on March 12, 1997.

[5] See Advisory and Rulemaking Committees—ICAO Amendment 97 to Annex 8 and Resistance to Intrusion Complete File (Design for Security HWG, TAE), *www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information/documentID/342.*

[6] *Flightdeck Door Monitoring and Crew Discreet Alerting Systems,* 72 FR 45629 (August 15, 2007).

[7] Relatively few such IPSBs were installed, relative to the total number of airplanes in scheduled service, and most have since been removed. The FAA is not aware of the reasons for removal. In addition, the FAA has no data regarding whether those varying installations would have met the requirements of this proposal.

[8] RTCA was formerly the Radio Technical Commission for Aeronautics and an Advisory Committee to the FAA.

[9] See Flightdeck Secondary Barrier Tasking Notice (June 20, 2019), *www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=3943.*

[10] See Flightdeck Secondary Barriers Working Group Report, available in the docket for this rulemaking and at *www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/document/information?documentID=4342.*

[11] See Aviation Rulemaking Advisory Committee (ARAC) Meeting (June 18, 2020), *www.faa.gov/regulations_policies/rulemaking/committees/documents/media/ARAC%20June%202020%20Meeting%20Packet.pdf.*

[12] The Report also included three recommendations on which the Working Group could not agree, but it provided alternatives. Recommendation 19 suggested either a full risk assessment by the FAA and air carriers of the secondary barriers currently in use, or the continuous evaluation in the future by air carriers of such secondary barrier systems under their Safety Management Systems. Recommendation 20 suggested either requiring two flight attendants onboard every aircraft, or a more particularized assessment of the effectiveness of the relevant operational procedures, when only one flight attendant is on board. Finally, Recommendation 21 suggested implementation times of either 18 or 36 months.

part 25 standards.[13] Such actions could, according to the Report, include excepting a proposed IPSB from conflicting part 25 regulations, such as those relating to emergency evacuation and aisle width. Such an exception would not, according to the Report, have a meaningful adverse impact on safety, due to the limited time during flight that the IPSB would be deployed.

—That the FAA require part 121 certificate holders to incorporate the IPSB's use into their procedures for opening the flightdeck door of newly-manufactured airplanes, and impose compliance times of 18 or 36 months [14] for when the use of the IPSB would be required as part of the certificate holder's operation of newly-manufactured airplanes.

Lastly, the Report recommended the FAA not impose a similar requirement for all-cargo operations or operations conducted under 14 CFR part 129.[15] The Report suggested the FAA consider whether the operational rule should account for smaller airplanes, because such airplanes may only have one cabin crewmember and flights of lesser duration, and the flightdeck door may be less likely to be opened.

III. Discussion of the Proposal

A. Proposed Part 25 Requirement for IPSB

The FAA proposes to require installation of an IPSB on certain airplanes used by air carriers to conduct passenger-carrying flights and for which the applicable operating rules (14 CFR 121.313(f)) require a reinforced flightdeck door.[16] Such IPSBs would be required to meet certain new design requirements, which would be set forth in a new paragraph (4) to § 25.795(a).

Part 25 prescribes airworthiness standards for the issuance of type certificates, and changes to those certificates, for transport category airplanes.[17] Each person who applies for such a certificate or change for such airplanes must show compliance with the applicable requirements in part 25. As such, the proposed part 25 revisions establish the IPSB performance standards, but do not specify which aircraft need IPSB installed, or that the IPSB must be used when showing compliance with § 121.584. This is accomplished by proposed changes to part 121.[18]

The IPSB would need to resist intrusion and meet certain strength and other standards, as described below.

1. Intrusion Resistance

The proposed requirement for resisting intrusion into the flightdeck must meet three criteria. First, the IPSB must be ''physical,'' *i.e.,* an object rather than only procedures. Second, the IPSB must be a ''barrier,'' in that it must occupy sufficient space that it cannot be avoided (*i.e.,* by going over, under, or around it) to get access to the flightdeck door. Third, to resist intrusion, the IPSB must impede physical force in the event a person tries to overcome the IPSB, including by attempting to open or push through it.

2. Proposed Load Requirements

The IPSB would be required to resist certain intrusion loads applied in both the direction of the flightdeck and the direction of the passenger cabin,[19] at the most critical locations on the IPSB. Given the variety of IPSB designs and failure modes that are possible, this rule would require application of the loads at the most critical locations for the particular design. For each load requirement, an applicant would have to identify and justify the most critical locations to apply these loads for its particular design. The applied loads would be considered ultimate loads.[20]

The FAA proposes the use of static, rather than dynamic, loads [21] for this requirement. Specifically, the FAA proposes a 600-pound static load in the direction of the flightdeck. This proposal is consistent with Recommendation 1 of the Report, which was derived from Working Group discussions regarding the potential means available on board (*i.e.,* persons) to exert such loads, coupled with the proprietary results of intrusion testing conducted by airframe manufacturers. Regarding the need to resist intrusion loads applied in the direction of the passenger cabin *i.e.,* by a person pulling on the barrier, the IPSB and the flightdeck door are effectively the same. Therefore, an acceptable load of 250 pounds in the direction of the passenger cabin would correspond to the constant 250-pound tensile load requirement in § 25.795(a)(2) for the flightdeck door. This would allow some commonality with testing of the flightdeck door.

The FAA proposes static rather than dynamic loads for these performance standards because the purpose of the IPSB is to provide resistance to intrusion during the comparatively short time necessary for the flightdeck door to be reopened by the flightcrew member and then closed and locked. This is in contrast to a barrier such as a flightdeck door, which must provide near-continuous security throughout the flight. For such barriers, the required dynamic loads of § 25.795(a)(1) are designed to simulate how the door may have to respond in service. For the IPSB, a simpler assessment—of static strength (as assessed by its ability to withstand applied loads)—in combination with the other proposed requirements, provides an acceptable way to determine that the IPSB resists access. Because dynamic load testing is generally more conservative than static load testing, an applicant could choose to use dynamic testing in order to demonstrate compliance with the static load performance requirements.

The FAA's proposed guidance on methods of testing these static load requirements is in proposed AC 25.795–X, which is discussed in the ''Proposed Guidance'' section of this document.

3. Proposed Delay Requirement

This proposed rule would require the IPSB be designed to slow the time by which a person could reach the flightdeck for at least the time required to open and reclose the flightdeck door, but no less than 5 seconds. This is the time cited in Recommendation 18 of the Report. This duration is reasonable and consistent with the purpose of the IPSB.

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[13] Part 25 contains the airworthiness standards (*i.e.,* design requirements) for transport category airplanes.

[14] These varying times were based on different estimates of the amount of time that would be necessary to develop and certify the IPSB. Report, pp. 23–25.

[15] Part 129 governs foreign operators who operate either within the United States, or who operate solely outside the United States but with airplanes registered in the United States.

[16] Part 121 of title 14 establishes minimum operating standards for part 119 certificate holders who wish to conduct domestic, flag, or supplemental operations.

[17] Transport category airplanes are airplanes for which a type certificate is applied for under part 21 in the transport category and that meet the transport category airworthiness requirements. Multi-engine airplanes with more than 19 seats or a maximum takeoff weight greater than 19,000 lbs must be certificated in the transport category.

[18] The FAA authorizes scheduled air service by issuing a part 119 certificate for operations under part 121. Air carriers authorized to operate under part 121 are generally large, U.S.-based airlines, regional air carriers, and certain cargo operators.

[19] For purposes of this preamble, the terms passenger ''cabin'' and passenger ''compartment'' refer to the same area of the airplane and therefore are used synonymously.

[20] Design loads are typically expressed in terms of limit loads, which are then multiplied by a factor of safety, usually 1.5, to determine ultimate loads. See 14 CFR 25.301, 25.303, and 25.305. In this proposal, the design loads would be expressed as ultimate loads, and no additional safety factor would be applied.

[21] In this context, ''static'' means a load that is constant and the rate of load application is not important; ''dynamic'' means a load for which both the magnitude and the rate of load application with respect to time are important.

The proposed requirement that the IPSB need only resist intrusion to the flightdeck when the flightdeck door is opened would permit the IPSB to be deployed as needed and stowed when not needed.

4. Proposed Visibility Requirement

The FAA proposes that the IPSB provide enough line-of-sight visibility to allow crewmember situational awareness of the area between the passenger cabin and the entry to the flightdeck. Due to the physical nature of the IPSB, maintaining situational awareness of the area between the passenger cabin and the vestibule area when the IPSB is deployed is important if crewmembers on either side of the IPSB need to act. The proposed design would be evaluated during certification to assess whether it meets the above performance standard. For example, such visibility could be accomplished via the type of material used to construct the IPSB or via open space (*e.g.,* holes, slots, or other openings) in the IPSB. This visibility requirement would be codified in new § 121.313(l).

5. Proposed Reach-Through Requirement

Such openings, however, could defeat the purpose of the IPSB if they allowed a person to reach through the barrier and grab the open flightdeck door. Therefore the FAA proposes to require, in new § 25.795(a)(4), that the IPSB prevent a person from doing so. The FAA would provide compliance guidance in Advisory Circular 25.795–X. This guidance would allow an applicant to show compliance using methods that include anthropometric reference values of a 50th percentile male, coupled with a maximum recommended spacing for any openings in the barrier.[22]

6. Proposed Exception From Incompatible Regulations

The FAA requests comment on its proposed method of certifying IPSB installations. The FAA proposes that, during its certification of the IPSB installation, the requirements of §§ 25.365, 25.803, 25.813, 25.815, 25.1411, and 25.1447 would not apply to IPSBs in the deployed configuration. An IPSB, when deployed to block access to the flightdeck, cannot reasonably be expected to meet certain design requirements for transport category airplanes, such as those relating to rapid decompression, emergency evacuation, aisle width, and accessibility to the emergency equipment. Moreover, because this rule would not require that the IPSB be deployed during taxi, takeoff, and landing, and because the IPSB should be immediately stowed after use, the amount of time that the IPSB is deployed should be very brief in comparison to the duration of the flight. This configuration-based compliance method would be similar to the FAA's longstanding method of certification of lavatory doors, in which the FAA considers the position of the door when making compliance findings. Depending on the proposed design, it may be necessary for an applicant to petition for exemption from certain regulations during the certification process.

7. Proposed Human Factors Considerations

The FAA proposes that the design of the IPSB, whether deployed or stowed, must allow for necessary crewmember activities. This would include providing adequate space for activities that include crew change-outs, restroom breaks, meal service, etc.

B. Proposed Part 121 Requirement to Use Installed Physical Secondary Barriers (IPSB)

The FAA proposes a new paragraph (l) in § 121.313 that would require all airplanes that § 121.313(f) requires to have a lockable door, and all transport category airplanes that have a door installed between the flightdeck and any other occupied compartment, to incorporate an IPSB that meets the requirements of proposed § 25.795(a)(4). This proposed requirement would apply to newly-manufactured airplanes two years after the effective date of this rule. This approach is consistent with the FAA's existing method of implementing the requirements for reinforced flightdeck doors and is discussed in more detail below. If the operating rules require a flightdeck door on the airplane, § 25.795, which currently specifies the requirements for the flightdeck door, would add the requirements for the IPSB.

An FAA requirement to simply install an IPSB would not necessarily ensure that the IPSB is deployed. Therefore, the FAA also proposes that operators incorporate the use of the IPSB into their flightdeck door opening procedures required by § 121.584. These procedures contain requirements to verify, prior to unlocking or opening a flightdeck door, that the area outside the flightdeck door is secure and, if someone outside the flightdeck seeks to have the flightdeck door opened, then that person is not under duress. New § 121.584(a)(3) would require an operator to deploy (close and lock) the IPSB, if one was required to be installed on that airplane in accordance with new § 121.313(l), before opening the flightdeck door during flight.

An operational procedure included in the operator's methods of compliance with § 121.584 would apply to uses of the IPSB. Some or all of the operator's existing procedures could be retained (*e.g.,* the procedure for a flight attendant to enter the flightdeck when one of the flightcrew leaves, to meet the requirements of § 121.587(b)), while others may need to be removed or replaced (*e.g.,* the use of a serving cart as an improvised non-installed barrier). Depending on the operator's procedures for opening the flightdeck door, an IPSB has the potential benefit of requiring only one flight attendant to carry out those procedures. One flight attendant could both deploy the secondary barrier, and enter the flightdeck when a pilot leaves the flightdeck. In contrast, typical current procedures for opening the flightdeck door necessitate more than one flight attendant.

The requirements of § 121.584 are only applicable when the flightdeck door is to be unlocked or opened. To comply with § 121.584 and protect the area just outside the flightdeck door, deployment of the IPSB would occur prior to unlocking or opening the flightdeck door. The FAA expects that the IPSB would remain deployed until after the flightdeck door is closed and locked. Accordingly, the IPSB would be in the stowed position during taxi, takeoff, landing, and the majority of flight.

Any training for operation of the IPSB should be tailored to meet operational requirements of various designs. Non-prescriptive examples of procedures are found in appendix B of the Report.

1. Proposed Two-Year Compliance Time

The FAA proposes a compliance time of two years, after which any transport category airplane manufactured and used in passenger-carrying operations under part 121 would be required to have an IPSB meeting the requirements of proposed § 25.795(a)(4). The FAA proposes this 2-year compliance time, rather than the 18 or 36 months recommended in the Report, for several reasons. There are very few in-production IPSBs currently in existence, so most designs would be new. The means of showing compliance with proposed § 25.795(a)(4) have not yet been developed nor used previously for

[22] As noted above, ARAC recommended the FAA prevent reach-through by a 50th percentile male, but the FAA proposes that a regulation which prevents a ''person'' from reaching through would be understandable and consistent with FAA regulatory practice, and can be explained in the relevant guidance material.

any of the IPSB that do exist. Consequently, part of the compliance time would be needed for both the applicant and the FAA's validation and refinement of the methods of compliance for both current and new designs. The requirements are complex and there are a large number of different airplane models likely to be affected. Many airplanes that would be required to have an IPSB will require design modification to permit IPSB installation.

2. Date of Manufacture

For the purposes of this proposal, the FAA considers the date of manufacture to be the date on which inspection records show that an airplane is in a condition for safe flight. This is not necessarily the date on which the airplane is in conformity with the approved type design, or the date on which a certificate of airworthiness is issued, because some items not relevant to safe flight, such as passenger seats, might not be installed at that time. It could be earlier, but would be no later, than the date on which the first flight of the airplane occurs.[23]

3. Not Applicable to Part 129 Operations

The FAA proposes to apply the requirements of proposed § 121.313(l) to passenger-carrying, transport category airplanes operating under part 121, and not to those airplanes operating under 14 CFR part 129.

Part 129 governs foreign operators who operate either within the United States, or who operate solely outside the United States, but with airplanes registered in the United States.[24] When the FAA adopted the reinforced flightdeck door requirements in part 121, the agency was concerned that aircraft operations subject to part 129 would be more attractive targets for terrorist actions if security was not similarly improved. Therefore, in June of 2002 the FAA adopted 14 CFR 129.28 [25] to require foreign air carriers to have the same level of flightdeck security as domestic air carriers. In this case, the requirement for an IPSB would be applicable to newly-manufactured airplanes only. The portion of the total fleet made up by airplanes that are both newly manufactured, and subject to part 129, is very small, so the difference in risk between the domestic fleet and the international fleet would not be significant under this proposal.

Moreover, after September 11, 2001, the need to require reinforced flightdeck doors was recognized internationally, and civil aviation authorities throughout the world worked together, and with ICAO, to establish uniform standards.[26] The FAA's requirements were mirrored by the civil aviation authorities of most other countries. In contrast, at this time neither ICAO nor other countries are imposing an IPSB requirement. An FAA requirement levied on foreign air carriers for an IPSB would therefore be un-harmonized, and as noted above, would not significantly change the composition of the international fleet since it would only apply to newly-produced airplanes. The FAA anticipates that, if there are no changes in fleet composition, by the time full adoption of IPSBs among the part 121 fleet occurs, approximately 35% of the part 121/129 fleet will lack an IPSB. Should the fleet change, or an IPSB requirement become an international standard, the FAA may reconsider its current position.

4. Size and Range

The FAA invites comments on applying proposed § 121.313(l) to all transport category airplanes, as well as to all airplanes with a flightdeck door. During a short flight, the flightdeck door may not need to be opened. ARAC therefore recognized that, for short flights, the IPSB may not provide the intended benefit. However, there is no obvious design parameter, such as passenger capacity or airplane gross weight, which correlates with short flights. Also, the maximum range of all of the airplane models that would be covered by this proposed rule exceeds the maximum flight time at which opening the flightdeck is unlikely. Therefore, this proposal does not consider an airplane's size or range, or duration of flight, but invites comment on whether any such limitations are appropriate.

C. Proposed Guidance

The FAA developed proposed AC 25.795–X, ''Installation of Physical Secondary Barriers for Transport Category Airplanes.'' This proposed AC would provide guidance on acceptable means, but not the only means, of showing compliance with proposed § 25.795(a)(4).

In addition, the FAA has proposed revisions to AC 120–110, ''Aircraft Secondary Barriers and Alternate Flight Deck Security Procedures,'' dated April 14, 2015, to add discussion regarding the installation of IPSB and address other operational issues.

The FAA will post these two proposed ACs to the docket for comment. The FAA will also post them to its ''Aviation Safety Draft Documents Open for Comment'' web page at *www.faa.gov/aircraft/draft_docs/.*

IV. Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the impacts of the proposed rule. The FAA provides a detailed Regulatory Impact Analysis in the docket of this rulemaking.

In conducting these analyses, the FAA determined that this proposed rule (1) has benefits that justify its costs; (2) is not an economically ''significant

[23] The FAA has used the term ''date of manufacture'' in previous rulemakings. See the final rules entitled *Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins* (60 FR 6616, 6617, February 2, 1995), and *Improved Flammability Standards for Thermal/Acoustic Insulation Materials Used in Transport Category Airplanes* (68 FR 45046, 45055, July 31, 2003).

[24] Currently there are approximately 3,400 airplanes eligible for operation in accordance with part 129 that are of the types that have a secure flightdeck door. This is approximately 35% of the part 121/129 fleet. Imposition of the requirement could have the effect of reducing the number of airplanes that operators choose make available for operation in part 129. Given that, in ten years, less than half of the part 121 fleet would have been equipped by IPSBs, the relevance to this rule of the number of part 129 airplanes would remain marginal.

[25] *Security Considerations for the Flightdeck on Foreign Operated Transport Category Airplanes* (67 FR 42449, June 21, 2002).

[26] 15 March 2002, Amendment 27 to Annex 6, Part I the *International Standards and Recommended Practices,* International Civil Aviation Organization.

regulatory action'' as defined in section 3(f) of Executive Order 12866; (3) would not have a significant economic impact on a substantial number of small entities; (4) would not create unnecessary obstacles to the foreign commerce of the United States; and (5) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

A. Regulatory Impact Analysis

1. Benefits

During many flights, the flightdeck door must be opened for lavatory breaks, meal service, rest periods, crew changes, etc. Between the time of opening and closing the flightdeck door (door transition), the open flightdeck has some degree of vulnerability to attack. This is especially the case for transcontinental and international flights. During these openings, an attack on the flightdeck could happen quickly; this could leave insufficient time for passengers and cabin crew to react. However, there have been no breaches of a flightdeck since the September 11, 2001 terrorist attacks.

The purpose and functional benefit of IPSBs, which Congress directed the FAA to require by mandate, is to enhance the flightdeck security procedures of 14 CFR 121.584 by slowing the time by which an unauthorized person could reach the flightdeck by at least the time required to open and reclose the flightdeck door.[27]

A Briefing Note[28] (Stewart and Mueller, 2019) provided to the ARAC Flightdeck Secondary Barrier Working Group by one of the members, applied an engineering technique—reliability analysis—to the Transportation Security Administration's (TSA) ''Layers of Security''[29] to estimate the benefits of secondary barriers in reducing the vulnerability of the U.S. commercial fleet to a 9/11-like terrorist attack. This approach requires estimates of ''disruption rates'' for the various TSA layers of security and also requires an estimate of the probability of a 9/11-like terrorist attack. Estimates of security layer disruption rates are very difficult to make and, accordingly, are highly uncertain. For example, Stewart and Mueller estimate a disruption rate of 15% for the TSA Airport Checkpoint Screening security layer, whereas Martonosi and Barrett[30] estimate the disruption rate to be 50%. Estimating the probability of a 9/11-like terrorist attack is also difficult since there has been only one such event. Consequently, estimating quantified benefits of the proposed IPSB requirements is problematic. Accordingly, the FAA does not endorse the analysis or conclusions of this Briefing Note.

However, based on estimates of costs of the 9/11 attacks, we have conducted a break-even analysis. An authoritative study[31] of the costs to New York City of the 9/11 attacks provides an estimate of $26.6 billion in physical capital and short-term earnings losses,[32] which amounts to $38.86 billion in 2021 dollars.[33] What remains is to estimate the cost of the 2,763 lives lost in the 9/11 attacks. Using DOT's $11.8 million dollar estimate of the Value of Statistical Life (VSL),[34] that loss is $32.60 billion, which added to the physical capital and earnings losses, makes the total New York City costs to be $71.46 billion. We estimate the cost of a single-airplane 9/11-type attack (and the value of an averted attack) to be half that at $35.73 billion. The break-even analysis estimates what the annual probability of a single-airplane 9/11-type attack must be in order for the proposed rule to break even, *i.e.,* for the benefits of the proposed rule to be equal to its costs. Dividing the $236.5 million cost[35] of the proposed rule by the $35.7 billion averted attack value yields the break-even annual probability of an attack to be 0.66%. Multiplying this calculated break-even probability of attack times the $35.7 billion averted attack value necessarily returns the $236.5 million break-even expected value of averting an attack. Such a break-even analysis implicitly assumes that the proposed rule is completely effective. Thus, here the proposed rule breaks even under the assumptions that the probability of an attempted attack is as high as 0.66 percent per year and that the proposed rule would be 100% effective in thwarting any such attack.

The FAA requests comments on the incremental benefits of this proposed rule, including additional information and data to quantify benefits.

2. Costs

The FAA uses the cost estimate of $35,000 provided by the Report for the purchase and installation of an IPSB. Costs are estimated in two stages since this proposed rule would require IPSBs be installed on each new airplane that is manufactured for delivery to a passenger air carrier operating under part 121. First-stage costs are calculated for the 25-year period, 2023–2047, during which the fleet operating under part 121 gradually becomes fully equipped with IPSBs. Second-stage costs are calculated to include in the analysis a full 25-year airplane life cycle (2048–2072) for which the entire part 121 fleet is equipped with IPSBs.

(a) Stage One Costs

In the preliminary analysis of the proposed rule, the FAA estimates the rule would begin to apply to new airplanes operating under part 121 by the end of 2023. The FAA uses its Aerospace Forecast 2020–2040 to estimate the annual increase in the passenger fleet operating under part 121.[36] The sum of the forecast increase in the fleet and the number of retirements determines the annual increase in new airplanes operating under part 121 and therefore the annual number of IPSBs that would be installed in airplanes destined for part 121 operations. Annual retirements are estimated assuming a retirement rate (3.57%) that is consistent with the 2020–2040 forecast of the number of airplanes in part 121 operations. A similar analysis is done to determine the IPSB training costs of pilots and flight attendants, except that training costs

[27] Report, pp. 33–34.

[28] Mark G. Stewart & John Mueller, ''Security Risk and Cost-Benefit Assessment of Secondary Flight Deck Barriers,'' Centre for Infrastructure Performance and Reliability, The University of Newcastle, Australia (2019), *nova.newcastle.edu.au/vital/access/manager/Repository/uon:35881.*

[29] ''Inside Look: TSA Layers of Security,'' *www.tsa.gov/blog/2017/08/01/inside-look-tsa-layers-security.*

[30] Susan E. Martonosi & Arnold Barnett. 2006. ''How Effective is Security Screening of Airline passengers?,'' Interfaces 36(6): 545, 550.

[31] Jason Bram, James Orr, and Carol Rapaport. 2002. ''Measuring the Effects of the September 11 Attack on New York City,'' Federal Reserve Bank of New York *Economic Policy Review* 8:2 (November).

[32] $21.6 bn in physical capital losses plus the $5 bn average of $3.6–$6.4 bn in short-term earnings losses.

[33] $26.6 bn inflated by ratio of 2021 and 2002 GDP Price Deflators. Source: U.S. Bureau of Economic Analysis, ''Table 1.1.4 Price Indexes for GDP.'' Click ''Modify'' icon and refresh table with first and last years of period.

[34] U.S. Department of Transportation, Office of Transportation Policy. ''Departmental Guidance on the Value of a Statistical Life,'' *www.dot.gov/policy/transportation-policy/economy.* Effective Date: March 24, 2022.

[35] Assumes 7 percent discount rate.

[36] FAA Forecast FY 2020–2040, Table 21: ''US Mainline Air Carriers—Passenger Jet Aircraft,'' & Table 25: ''Regional Air Carriers—Passenger Aircraft.'' Since some regional air carriers operate under part 135 as well as part 121, the estimate of airplanes operating under part 121 is improved by excluding airplanes with less than 20 passenger seats. Estimates for the period 2040–2047 are made assuming the growth rate (1.74%) implied by the FAA part 121 airplane numbers for 2030 and 2040.

apply to current as well as future pilots and flight attendants.

(b) Stage Two Costs

As previously noted, second-stage costs are calculated in order to include a full 25-year airplane life cycle (2048–2072) for which the entire part 121 fleet is equipped with IPSBs. For this second stage, the FAA is well beyond the terminal date of the FAA forecast and, accordingly, assumes a constant growth rate for the part 121 fleet. The constant growth rates for pilots and flight attendants are as before.

(c) Other Potential Costs

Stewart and Mueller also discuss potential added risks associated with IPSBs, including, for example, that crew vigilance and responsiveness might be reduced in the presence of an IPSB. The FAA notes that it does not find significant downsides to the installation of the ISPBs if all other relevant regulations are complied with.

(c) Total Costs of the Rule

Table 1 summarizes the total costs of the proposed rule by combining stage one and stage two costs. At a seven percent discount rate, the present value total costs of the proposed rule are $236.5 million with annualized costs at $20.3 million. At a three percent discount rate, the present value total costs of the proposed rule are $505.0 million with annualized costs at $ 29.0 million.

TABLE 1—TOTAL COSTS OF SECONDARY BARRIERS PROPOSED RULE

[$ millions]

	Present value costs (7%)	Annualized costs (7%)	Present value costs (3%)	Annualized costs (3%)
2023–2047	$186.0	$16.0	$296.5	$17.0
2048–2072	50.4	4.3	208.6	12.0
2023–2072	236.5	20.3	505.0	29.0

1. Present values discounted to 2021 at 7% and 3% discount rates.
2. Columns may not sum to totals due to rounding.

3. Discussion of Alternatives

(a) Alternative 1—Extending the Proposed Rule To Include Foreign Carriers Operating Under Part 129 [37]

At this time neither other countries nor ICAO have identified secondary barriers as a security priority. Therefore, extending the IPSB requirement to foreign air carriers would be un-harmonized. After the events of September 11, 2001, the FAA did apply the hardened flightdeck door requirement to foreign air carriers, but the need for hardened flightdeck doors was recognized internationally and the FAA's standards were reflected in the requirements of most other countries. The FAA estimates that by the time IPSBs are fully adopted among part 121 aircraft, 35% of operating commercial passenger aircraft (parts 121 and 129) will not have an IPSB.

(b) Alternative 2—Exempting the Proposed Rule for Short Duration Flights

ARAC recognized that, for short flights, the flightdeck door may not need to be opened, in which case the IPSB would not provide the intended benefit. However, ARAC was unable to identify any airplane design parameter, such as passenger capacity or airplane gross weight that correlates with short flights. Also, the range of all the airplane models that would be affected by this proposed rule exceeds the maximum flight length at which opening the flightdeck door is unlikely. Therefore, this proposal does not address an airplane's size or range, or duration of flight, but invites comment on whether any such limitations are appropriate.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The FAA is publishing this Initial Regulatory Flexibility Analysis (IRFA) to aid the public in commenting on the potential impacts to small entities from this proposal. The FAA invites interested parties to submit data and information regarding the potential economic impact that would result from the proposal. The FAA will consider comments when making a determination or when completing a Final Regulatory Flexibility Assessment.

Under sections 603(b) and (c) of the RFA, an IRFA must contain the following:

(1) A description of the reasons why the action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the proposed rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

(4) A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule; and

(6) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

1. Reasons the Action Is Being Considered

Publication of the rule will satisfy the requirements of section 336 of the FAA Reauthorization Act of 2018. This law requires that the FAA issue an order for the installation of Secondary Cockpit Barriers on each new airplane that is manufactured for delivery to a

[37] Part 129 governs foreign operators who operate either within the United States, or who operate solely outside the United States, but with airplanes registered in the United States.

passenger air carrier in the United States operating under title 14 Code of Federal Regulations (CFR) part 121.

2. Objectives and Legal Basis of the Proposed Rule

The objective of the proposed rule is to require all airplanes in part 121 passenger operations to have an Installed Physical Secondary Barrier (IPSB). The IPSB would be deployed between the flightdeck and passenger compartments before the flightdeck door was opened so as to protect the flightdeck during the time that the door was opened and closed. This rulemaking is issued under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General Requirements.'' Under that section, the FAA is charged with prescribing regulations and minimum standards for the design and performance of airplanes that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

3. All Federal Rules That May Duplicate, Overlap, or Conflict

There are no relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

4. Description and Estimate of the Number of Small Entities

The FAA used the definition of small entities in the RFA for this analysis. The RFA defines small entities as small businesses, small governmental jurisdictions, or small organizations. In 5 U.S.C. 601(3), the RFA defines ''small business'' to have the same meaning as ''small business concern'' under section 3 of the Small Business Act. The Small Business Act authorizes the Small Business Administration (SBA) to define ''small business'' by issuing regulations.

SBA has established size standards for various types of economic activities, or industries, under the North American Industry Classification System (NAICS).[38] These size standards generally define small businesses based on the number of employees or annual receipts.

NAICS has classified certificate holders operating under part 121 in either NAICS 481111, Scheduled Passenger Air Transportation or NAICS 481211, Nonscheduled Chartered Passenger Air Transportation, or both. Since the size standard for either industry is the same at 1500 employees, it is of no concern in which of the two industries they are classified.

In the regulatory impact analysis for this rulemaking, a total of 43 operators operating under part 121 were identified in the FAA's National Vital Information Subsystem (NVIS) data base. Table 2 lists 23 of these operators identified in this study as having less than 1500 employees and therefore potentially subject to consideration under the Regulatory Flexibility Act. Twelve of these operators were identified as small based on airline employment data (Table 2, col. 3) from the DOT Bureau of Transportation Statistics.[39] The remaining eleven operators were identified as having less than 1500 total employees on the basis of their numbers of operations and maintenance employees (also from the NVIS database). One of the small operators, Piedmont Airlines, was excluded from the regulatory flexibility analysis as it is a wholly-owned subsidiary of American Airlines. Since the remaining 22 small operators are more than 50% of the part 21 operator population, the FAA estimates that a substantial number of small firms are affected by this rulemaking.

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[38] Small Business Administration, Table of Size Standards (2019). *www.sba.gov/document/support-table-size-standards.*

[39] *Transtats.bts.gov.*

TABLE 2. DATA FOR REGULATORY FLEXIBILITY ANALYSIS OF SECONDARY BARRIERS RULE

PART 121 OPERATOR NAME	All Ops Emp (NVIS data)	No. Emp (BTS data)	Flt Attend-ants	Pilots	No. Aircraft	2015 $ mn	2016 $ mn	2017 $ mn	2018 $ mn	2019 $ mn	Avg Rev 2015-2019	IPSB Cost ($ 000)	IPSB Cost/ Avg Rev	Notes
AERODYNAMICS INC	37		10	15	2							70		Operation certificate terminated Oct. 2020.
AIR WISCONSIN AIRLINES LLC	1120		289	571	67	536	443	248			409	2,345	**0.57%**	
CARIBBEAN SUN AIRLINES INC	104	158	51	20	7			34	37	38	27	245	**0.90%**	Doing business as World Atlantic Airlines.
CHAMPLAIN ENTERPRISES INC	713		170	330	**37**		115	135			122	1,295	**1.06%**	Operates mainly through subsidiary CommutAir, which operates as United Express.
COMPASS AIRLINES LLC	1299	1,438	469	531	48	177	235	236	241	228	223	1,680	**0.75%**	Shut down due to Covid.
CORVUS AIRLINES INC	156		29	61	10							350		Bankrupt July 2020.
EASTERN AIRLINES LLC	146	196	88	30	8		56	28			42	280	**0.67%**	
ELITE AIRWAYS LLC	139	130	40	43	13				134	117	126	455	**0.36%**	
EMPIRE AIRLINES INC	332		14	134	60							2,100		
GOJET AIRLINES LLC	918	977	292	487	43	204	227	238	257	265	238	1,505	**0.63%**	Trans States Holding WOS.
GULF AND CARIBBEAN CARGO INC	79	122	0	41	19							665		
HILLWOOD AIRWAYS, LLC	49	35	14	9	2							70		
KAISERAIR INC	94	68	15	38	7							245		
KEY LIME AIR CORPORATION	123		9	38	35							1,225		
MIAMI AIR INTERNATIONAL INC	249	351	131	67	6	108	105	119	118	112	112	210	**0.19%**	Liquidated May 2020.
OMNI AIR INTERNATIONAL LLC	758	1045	302	246	14	360	336	358	493	541	418	490	**0.12%**	
PENINSULA AVIATION SERVICES INC	80		18	17	6							210		Saudi Arabian A/C refueling.
PIEDMONT AIRLINES INC	1096		231	530	60							2,100		WOS of American Airlines.
SEABORNE VIRGIN ISLAND INC	96		17	29	7							245		Subsidiary of Silver Airways.
SIERRA PACIFIC AIRLINES INC	43	35	12	11	2							70		
SILVER AIRWAYS LLC	355		56	142	26	119				42	80	910	**1.13%**	
TEM ENTERPRISES	21	25	5	5	1	55	97	81		2	59	35	**0.06%**	Doing business as Xtra Airways.
TRANS STATES AIRLINES LLC	1116		244	464	48							1,680		Planned shutdown accelerated due to Covid.

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5. Projected Reporting, Recordkeeping, and Other Compliance Requirements

Since the secondary barriers proposed rule would apply to only new airplanes entering the fleet, the analysis assumes that each operator's current fleet is replaced immediately even though the fleet airplanes generally will be replaced only when they are retired. Though airplanes could be retired any time over the next 25 years depending on the age of the airplane, the analysis assumes immediate replacement to ensure that the economic impact is not underestimated. The regulatory impact analysis assumes that the average retirement age of transport category airplanes is 25 years.

The economic impact is assessed using 11 of the 22 small operators for which revenue data is available from Cirium's (formerly FlightGlobal) FlightFleets Analyzer. The analysis uses average revenue for the five-year period 2015–2019. Revenue figures for the 11 operators are available for an average of 3.45 years. For an operator, the economic impact is measured as the estimated $35,000 cost of an FAA-certified IPSB times number of airplanes, as a percentage of the average revenue. The number of airplanes is from the SPAS database as of January 9, 2020. The regulatory impact analysis also considers training costs for flight attendants and pilots, but these costs are not included here as they have a trivial effect on the results.

As Table 2 shows, the economic impact ranges from .06% and 1.13% of sales, which averages to 0.60%. On a 2% criterion that the economic impact is significant only if the IPSB cost is at least 2% of a small firm's annual revenues, there is no significant economic impact for any small firm. On a 1% criterion, the economic impact is barely significant for just 2 of the 11 firms which data is available. Bearing in mind that these estimates are very conservative, the FAA concludes that there is not a significant impact on a substantial number of small firms. The FAA requests comments on these estimates and whether or not they represent a significant economic impact on the small firms affected by this proposed rule.

6. Significant Alternatives Considered that Minimize Economic Impacts on Small Entities

The FAA evaluated alternatives to this rulemaking that could minimize impacts on small entities. The FAA identified only alternative 2 of its regulatory impact analysis as potentially minimizing such impacts. Specifically, the FAA considered exempting short duration flights from the proposed rule as a means of reducing economic impacts on small entities. ARAC recognized that, for short flights, the flightdeck door may not need to be opened, in which case the IPSB would not provide the intended benefit. However, ARAC was unable to identify any airplane design parameter, such as passenger capacity or airplane gross weight that sufficiently correlates with short flights. Also, the range of all the airplane models that would be affected by the proposed rule exceeds the maximum flight length at which opening the flightdeck door is unlikely. The FAA requests comments on this and other alternatives that would minimize economic impacts of the proposed rule on small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

The FAA has assessed the potential effect of this proposed rule and has determined that it would have a legitimate domestic objective, in that it would increase the safety of the United States from terrorist attacks on U.S.-operated airplanes. This proposed rule would not operate in a manner as to directly affect foreign trade and, therefore, would have little or no effect on foreign trade.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155.0 million in lieu of $100 million.

This rule does not contain such a mandate. Therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to ICAO Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

In accordance with the provisions of regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508), FAA Order 1050.1F identifies FAA actions that are categorically excluded from preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this NPRM action qualifies for the categorical exclusion identified in paragraph 5–6.6(d) because no significant impacts to the environment are expected from publication of this NPRM and it involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism (64 FR 43255, August 10, 1999). The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, International Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation (77 FR 26413, May 4, 2012), promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this proposed rule under the policies and agency responsibilities of Executive Order 13609, and has determined that this proposed rule would have no effect on international regulatory cooperation.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

Except for the confidential business information described in the next paragraph, the FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dan Jacquet, AIR–626, Human-Machine Interface Section, Technical Innovation Policy Branch, Policy and Innovation Division, Aircraft Certification Service, Federal Aviation Administration, 2200 South 216th Street, Des Moines, WA 98198.

Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the internet by—

1. Searching the Federal eRulemaking Portal (*www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies web page at *www.faa.gov/regulations_policies* or

3. Accessing the Government Printing Office's web page at *www.GovInfo.gov.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the internet through the Federal eRulemaking Portal referenced in item (1) above.

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact the person identified in the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *www.faa.gov/regulations_policies/rulemaking/*sbre_act/.

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701, 44702 and 44704; Pub. L. 115–254, 132 Stat 3281 (49 U.S.C. 44903 note).

■ 2. In § 25.795, add paragraph (a)(4) to read as follows:

§ 25.795 Security considerations.

(a) * * *

(4) An installed physical secondary barrier (IPSB) must be installed to resist intrusion into the flightdeck whenever the flightdeck door is opened. In addition, when deployed, the IPSB must:

(i) Resist a 250 pound (1,113 Newtons) static load in the direction of the passenger cabin applied at the most critical locations on the IPSB;

(ii) Resist a 600 pound (2,669 Newtons) static load in the direction of the flightdeck applied at the most critical locations on the IPSB;

(iii) Delay a person attempting to access the flightdeck by at least the time required for a crewmember to open and reclose the flightdeck door, but no less than 5 seconds;

(iv) Prevent a person from reaching through and touching the flight deck door; and

(v) Allow for necessary crewmember activities.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat 3281 (49 U.S.C. 44903 note).

■ 4. In § 121.313, add paragraph (l) to read as follows:

§ 121.313 Miscellaneous equipment.

* * * * *

(l) For airplanes required by paragraph (f) of this section to have a door between the passenger and pilot or crew rest compartments, and for transport category airplanes that have a door installed between the pilot compartment and any other occupied compartment, that were manufactured after [DATE TWO YEARS AFTER THE EFFECTIVE DATE OF THE FINAL RULE], an installed physical secondary barrier (IPSB) that provides line-of-sight visibility between the flightdeck door and the cabin, and meets the requirements of § 25.795(a)(4) in effect on [EFFECTIVE DATE OF THE FINAL RULE].

■ 5. In § 121.584, add paragraph (a)(3) to read as follows:

§ 121.584 Requirement to view the area outside the flightdeck door.

* * * * *

(a) * * *

(3) If the airplane is in flight, any installed physical secondary barrier required by 121.313(l) has been deployed, and;

* * * * *

Issued under authority provided by Public Law 115–254 and 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on July 27, 2022.

David W. Hempe,

Deputy Executive Director, Aircraft Certification Service.

[FR Doc. 2022–16443 Filed 7–29–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0980; Project Identifier MCAI–2022–00448–P]

RIN 2120–AA64

Airworthiness Directives; Hoffmann GmbH & Co. KG Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–23–17, which applies to all Hoffmann GmbH & Co. KG (Hoffmann) model HO–V 72 propellers. AD 2021–23–17 requires amending the existing aircraft flight manual (AFM) by inserting abnormal propeller vibration instructions, visual inspection and non-destructive test (NDT) inspection of the propeller hub and, depending on the results of the inspections, replacement of the propeller hub with a part eligible for installation. Since the FAA issued AD 2021–23–17, further investigation by the manufacturer revealed that cracks found on propeller hubs likely resulted from propeller blade retention nuts that were not tightened using published service information during blade installation. This proposed AD would retain the required actions of AD 2021–23–17. This proposed AD would also require a maintenance records review and, depending on the results of the maintenance records review, tightening of each propeller blade retention nut to specific torque values. Depending on the results of the maintenance records review, this proposed AD would require physically inspecting the propeller blade for shake. If any axial play is detected during the performance of the inspection, this proposed AD would require the removal of the propeller from service and the performance of an NDT inspection of the propeller hub. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 15, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Hoffmann GmbH & Co. KG, Küpferlingstrasse 9, 83022, Rosenheim, Germany; phone: +49 0 8031 1878 0; email: *info@hoffmann-prop.com;* website: *https://hoffmann-prop.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0980; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7761; email: *9-AVS-AIR-BACO-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0980; Project Identifier MCAI–2022–00448–P'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *www.regulations.gov,* including any personal information you provide. The

agency will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–23–17, Amendment 39–21815 (86 FR 68905, December 6, 2021), (AD 2021–23–17), for all Hoffmann GmbH & Co. KG model HO–V 72 propellers. AD 2021–23–17 was prompted by reports of cracks at different positions on two affected propeller hubs. AD 2021–23–17 requires amending the existing AFM by inserting abnormal propeller vibration instructions, visual inspection and NDT inspection of the propeller hub and, depending on the results of the inspections, replacement of the propeller hub with a part eligible for installation. The agency issued AD 2021–23–17 to prevent failure of the propeller hub.

Actions Since AD 2021–23–17 Was Issued

Since the FAA issued AD 2021–23–17, the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2022–0061, dated April 4, 2022 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Cracks have been reported at different positions on two affected parts, both installed on Slingsby T67 ''Firefly'' aeroplanes. One crack was found during scheduled inspection, the other crack during an unscheduled inspection after abnormal vibrations occurred. Subsequent investigation determined that improper tightening of blade nuts has caused or contributed to those events.
>
> This condition, if not detected and corrected, could lead to in-flight propeller detachment, possibly resulting in damage to the aeroplane and/or injury to persons on the ground.
>
> To address this potential unsafe condition, Hoffmann Propeller issued the SB, providing applicable instructions, and EASA issued Emergency AD 2020–0226–E (later revised [to EASA AD 2020–0226R1]) to require inspections of affected parts and, depending on findings, replacement. That AD also required, for certain aeroplanes, amendment of the applicable Aircraft Flight Manual (AFM).
>
> Since that [EASA] AD was issued, further investigation revealed that not all propeller blade nuts were tightened in accordance with the Hoffman Propeller blade nut tightening procedure B2.23 which requires a certain over-torquing and loosening of the blade nut to limit a preload reduction due to material settlement. Prompted by this development, Hoffmann Propeller issued SB057 (incorporating blade nut tightening procedure B2.23) providing torquing instructions, and SB58 providing instructions for setting correct counterweight angles. Additionally, Hoffmann Propeller issued the torque tightening SB (referencing SB57 and SB58) providing inspections and corrective action instructions.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2020–0226R1, which is superseded, and requires additional blade checks, inspections, and re-tightening of the propeller blade nuts.

You may obtain further information by examining the MCAI in the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0980.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information:

- Hoffmann Propeller Service Bulletin SB057 C, dated February 22, 2022. This SB specifies procedures for tightening the propeller blade retention nut.
- Hoffmann Propeller Service Bulletin SB059 B, dated February 23, 2022. This SB specifies procedures for tightening the propeller blade retention nut with the correct torque and inspecting the propeller blade for shake.

This proposed AD would also require Hoffmann Propeller GmbH & Co. KG Service Bulletin SB E53 Rev. D, dated February 18, 2021, which was previously approved by the Director of the Federal Register for incorporation by reference on January 10, 2022 (86 FR 68905, December 6, 2021). The service bulletin describes procedures for visual and NDT inspections of the propeller hub for cracks.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

Other Related Service Information

The FAA reviewed the following service information:

- Hoffmann Propeller Service Bulletin SB058 A, dated February 2, 2022. This SB specifies the updated definition of the counterweight angle.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2021–23–17. This proposed AD would also require a maintenance records review and, depending on the results of the maintenance records review, tightening of each propeller blade retention nut to specified torque values. Depending on the results of the maintenance records review, this proposed AD would require initial and repetitive physical inspections of the propeller blade for shake. If any axial play is detected during inspection, this proposed AD would require the removal of the propeller from service and the performance of an NDT inspection of the propeller hub.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 35 propellers installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Amend AFM	1 work-hour × $85 per hour = $85	$0	$85	$2,975
Visually inspect propeller hub	1 work-hour × $85 per hour = $85	0	85	2,975
NDT inspect propeller hub	8 work-hours × $85 per hour = $680	0	680	23,800
Review maintenance records	0.5 work-hours × $85 per hour = $42.50	0	42.50	1,487.50

The FAA estimates the following costs to do any necessary actions that would be required based on the results of the proposed inspections. The agency has no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace propeller hub	5 work-hours × $85 per hour = $425	$1,600	$2,025
Inspect propeller blade for shake	0.25 work-hours × $85 per hour = $21.25	0	21.25
Tighten propeller blade retention nuts	2 work-hours × $85 per hour = $170	0	170

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2021–23–17, Amendment 39–21815 (86 FR 68905, December 6, 2021); and

■ b. Adding the following new airworthiness directive:

Hoffmann GmbH & Co. KG: Docket No. FAA–2022–0980; Project Identifier MCAI–2022–00448–P.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by September 15, 2022.

(b) Affected ADs

This AD replaces AD 2021–23–17, Amendment 39–21815 (86 FR 68905, December 6, 2021) (AD 2021–23–17).

(c) Applicability

This AD applies to Hoffmann GmbH & Co. KG (Hoffmann) model HO–V 72 propellers.

(d) Subject

Joint Aircraft System Component (JASC) Code 6114, Propeller Hub Section.

(e) Unsafe Condition

This AD was prompted by reports of cracks at different positions on two affected propeller hubs. The FAA is issuing this AD to prevent failure of the propeller hub. The unsafe condition, if not addressed, could result in release of the propeller, damage to the airplane, and injury to persons on the ground.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

(1) Before the next flight after December 22, 2020 (the effective date of AD 2020–25–05, Amendment 39–21347 (85 FR 78702, December 7, 2020)), amend the emergency or abnormal procedures section of the existing aircraft flight manual by inserting this text: ''Abnormal propeller vibrations: As applicable, reduce engine RPM.''

(2) Before the next flight after January 10, 2022 (the effective date of AD 2021–23–17), and thereafter, before the next flight after any flight where abnormal propeller vibrations have been experienced, visually inspect propeller hub HO–V 72 ( ) ( )–( )–( ) for cracks using paragraph 2.1 of Hoffmann Propeller GmbH & Co. KG Service Bulletin SB E53, Rev. D, dated February 18, 2021 (Hoffmann Propeller SB E53 Rev. D).

(3) Within 20 flight hours (FHs) after January 10, 2022 (the effective date of AD 2021–23–17), perform a non-destructive test (NDT) inspection of propeller hub HO–V 72 ( ) ( )–( )–( ) using paragraph 2.3 of Hoffmann Propeller SB E53 Rev. D.

(4) During each overhaul of propeller hub HO–V 72 ( ) ( )–( )–( ) after January 10, 2022 (the effective date of AD 2021–23–17), perform an NDT inspection using paragraph 2.3 of Hoffmann Propeller SB E53 Rev. D.

(5) Within 30 days after the effective date of this AD, review the maintenance records

to confirm the propeller blade retention nuts were tightened at the last in-shop maintenance visit to the torque values in paragraph 5 of Hoffmann Propeller Service Bulletin SB057 C, dated February 22, 2022 (Hoffmann Propeller SB057 C).

(6) If, during the records review required by paragraph (g)(5) of this AD, it is determined that the propeller blade retention nuts were not tightened to the torque values in paragraph 5 of Hoffmann Propeller SB057 C, or it cannot be confirmed if the propeller blade retention nuts were tightened to the torque values in paragraph 5 of Hoffmann Propeller SB057 C, perform the following actions:

(i) Within 90 FHs after the effective date of this AD, tighten each propeller blade retention nut to the torque values in paragraph 5 of Hoffmann Propeller SB057 C, using paragraphs 6 and 7 of Hoffmann Propeller Service Bulletin SB059 B, dated February 23, 2022.

(ii) Before the next flight after the effective date of this AD and, thereafter, before each flight until the propeller blade retention nut is tightened to the torque values in paragraph 5 of Hoffmann Propeller SB057 C, as required by paragraph (g)(6)(i) of this AD, confirm that there is no axial play in the blade retention system by inspecting the propeller blade for shake. If any axial play is detected, remove the propeller from service and perform an NDT inspection of the propeller hub using paragraph 2.3 of Hoffmann Propeller SB E53 Rev. D.

(7) If, during any inspection required by paragraph (g)(2), (3), (4) or (6)(ii) of this AD, any crack is detected, replace propeller hub HO–V 72 ( ) ( )–( )–( ) with a part eligible for installation.

(h) Definition

For the purpose of this AD, a ''part eligible for installation'' is a propeller hub HO–V 72 ( ) ( )–( )–( ) with zero hours time since new, or a propeller hub HO–V 72 ( ) ( )–( )–( ) that has passed an NDT inspection using paragraph 2.3 of Hoffmann Propeller SB E53 Rev. D.

(i) Non-Required Actions

(1) Sending the propeller to Hoffmann for investigation, as contained in paragraph 2.1 of Hoffmann Propeller SB E53 Rev. D, is not required by this AD.

(2) Reporting propeller hubs with cracks to Hoffmann, as contained in paragraph 2.3 of Hoffmann Propeller SB E53 Rev. D, is not required by this AD.

(j) Credit for Previous Actions

(1) You may take credit for the initial visual inspection and NDT inspection of the propeller hub required by paragraphs (g)(2), (3), and (4) of this AD if you performed any of these actions before January 10, 2022 (the effective date of AD 2021–23–17) using Hoffmann Propeller GmbH & Co. KG SB E53, Rev. A, dated October 9, 2020; Rev. B, dated October 14, 2020; or Rev. C, dated December 9, 2020.

(2) You may take credit for the records review to confirm the propeller blade retention nuts were tightened to the torque values as required by paragraph (g)(5) of this AD, and the tightening of each propeller blade retention nut as required by paragraph (g)(6)(i) of this AD if you performed any of these actions before the effective date of this AD during the last in-shop maintenance visit using Hoffmann Propeller Service Bulletin SB057 B, dated February 8, 2022; Hoffmann Propeller Service Bulletin SB059 A, dated February 11, 2022; or Hoffmann Propeller Service Bulletin SB059 B, dated February 23, 2022.

(k) Special Flight Permit

A special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a service facility to perform the NDT inspection. Special flight permits are prohibited to perform the visual inspection of the propeller hub.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (m)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(m) Related Information

(1) For more information about this AD, contact Michael Schwetz, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7761; email: *9-AVS-AIR-BACO-COS@faa.gov*.

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2022–0061, dated April 4, 2022, for more information. You may examine the EASA AD in the AD docket at *www.regulations.gov* by searching for and locating it in Docket No. FAA–2022–0980.

(3) For service information identified in this AD, contact Hoffmann GmbH & Co. KG, Küpferlingstrasse 9, 83022, Rosenheim, Germany; phone: +49 0 8031 1878 0; email: *info@hoffmann-prop.com;* website: *https://hoffmann-prop.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on July 22, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–16192 Filed 7–29–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0977; Project Identifier AD–2022–00419–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–8C and CF34–8E model turbofan engines. This proposed AD was prompted by a report of a crack found on the low-pressure turbine (LPT) stage 5 disk at the forward arm area. This proposed AD would require the removal of the affected LPT stage 5 disk and replacement with a part eligible for installation. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by September 15, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *www.ge.com.* You may view this service information at the Airworthiness Products Section, Operational Safety Branch, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for

and locating Docket No. FAA–2022–0977; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; email: *Scott.M.Stevenson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0977; Project Identifier AD–2022–00419–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA received a report of a crack found on an LPT stage 5 disk at the forward arm area. The manufacturer's analysis revealed that the crack was due to high-vibratory stress caused by a bladed disk mode that resulted in the initiation of multiple high cycle fatigue (HCF) cracks that connected, resulting in a long circumferential crack. As a result of its analysis, the manufacturer published service information that specifies procedures for the removal of the affected LPT stage 5 disk, part number (P/N) 4117T14P02, and replacement with an LPT stage 5 disk, P/N 4117T14P03. The replacement LPT stage 5 disk, P/N 4117T14P03, has a modified geometry (thicker forward arm) that will improve the HCF capability and reduce the likelihood of a crack. This condition, if not addressed, could result in failure of the LPT stage 5 disk, loss of engine thrust control, and reduced control of the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed GE CF34–8C Service Bulletin (SB) 72–0352 R00, dated September 20, 2021, and GE CF34–8E SB 72–0240 R00, dated September 20, 2021. These SBs, differentiated by engine model, describe procedures for removing and replacing the affected LPT stage 5 disk, P/N 4117T14P02, with a new LPT stage 5 disk, P/N 4117T14P03.

Proposed AD Requirements in This NPRM

This proposed AD would require the removal of the affected LPT stage 5 disk and replacement with a part eligible for installation.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 112 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove and replace the LPT stage 5 disk.	2 work-hours × $85 per hour = $170.	$30,500 (pro-rated)	$30,670	$3,435,040

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

General Electric Company: Docket No. FAA–2022–0977; Project Identifier AD–2022–00419–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by September 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5A2, CF34–8C5A3, CF34–8C5B1, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6, and CF34–8E6A1 model turbofan engines with an installed low-pressure turbine (LPT) stage 5 disk, part number (P/N) 4117T14P02.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report of a crack found on the LPT stage 5 disk at the forward arm area. The FAA is issuing this AD to prevent failure of the LPT stage 5 disk. The unsafe condition, if not addressed, could result in loss of engine thrust control and reduced control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Required Actions

During the next piece-part exposure after the affected LPT stage 5 disk accumulates 8,000 cycles since new (CSN), remove the affected LPT stage 5 disk and replace with a part eligible for installation.

(h) Installation Prohibition

Do not install an affected LPT stage 5 disk with 8,000 CSN or more into the LPT module of the engine.

(i) Definitions

(1) For the purpose of this AD, a ''part eligible for installation'' is an LPT stage 5 disk, P/N 4117T14P03, or later approved P/N.

(2) For the purpose of this AD, ''piece-part exposure'' is when the LPT module is separated from the engine and the LPT stage 5 blades are removed from the LPT stage 5 disk.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD and email to: *ANE-AD-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7132; email: *Scott.M.Stevenson@faa.gov.*

Issued on July 21, 2022.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–16011 Filed 7–29–22; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1212

[Document Number NASA–22–042; Docket Number–NASA–2022–0004]

RIN 2700–AE66

Social Security Number Fraud Prevention Act of 2017 Implementation

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the NASA's regulations under the Privacy Act. The revisions would clarify and update the language of procedural requirements pertaining to the inclusion of Social Security Numbers (SSN) on documents that the Agency sends by mail. These revisions are necessary to implement the Social Security Number Fraud Prevention Act of 2017, which restricts the inclusion of SSNs on documents sent by mail by the Federal Government.

DATES: Submit comments on or before September 15, 2022.

ADDRESSES: Comments must be identified with RIN 2700–AE66 and may be sent to NASA via the Federal E-Rulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Stayce Hoult, Office of the Chief Information Officer, 256–544–7705.

SUPPLEMENTARY INFORMATION: The Social Security Number Fraud Prevention Act of 2017 (the Act) (Pub. L. 115–59; 42 U.S.C. 405 note), which was signed on September 15, 2017, restricts Federal agencies from including individuals' SSNs on documents sent by mail, unless the head of the agency determines that the inclusion of the SSN on the document is necessary (section 2(a) of the Act). The Act requires agency heads to issue regulations specifying the circumstances under which inclusion of an SSN on a document sent by mail is necessary. These regulations, which must be issued not later than five years after the date of enactment, shall include instructions for the partial redaction of SSNs where feasible, and shall require that SSNs not be visible on the outside of any package sent by mail (section 2(b) of the Act). This proposed rule would revise NASA's regulations under the Privacy Act (14 CFR part 1212.6, consistent with the requirements in the Act. The proposed regulation would also clarify the procedural requirements pertaining to the inclusion of SSNs on documents that NASA sends by mail.

Statutory Authority: The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20101 *et seq.,* authorizes the NASA Administrator to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law. The Social Security Number Fraud Prevention Act of 2017, 42 U.S.C. 405 note, authorizes and requires agencies to promulgate rules related to the mailing of documents that contain an SSN.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review, and Executive Order 13563, Improvement Regulation and Regulation Review

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits of reducing costs, harmonizing rules, and promoting flexibility. This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 U.S.C. 605(b)). This proposed rule does not have any economic impact on small entities.

Review Under the Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Review Under Executive Order of 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) requires regulations be reviewed for Federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any direct effects on state and local governments within the meaning of the Executive Order. Therefore, no Federalism assessment is required.

List of Subjects in 14 CFR Part 1212

Privacy, Privacy Act.

For reasons discussed in the preamble, NASA amends 14 CFR part 1212 as follows:

PART 1212—PRIVACY ACT—NASA REGULATIONS

■ 1. The authority citation for part 1212 is revised to read as follows:

Authority: The National Aeronautics and Space Act, as amended, 51 U.S.C. 20101 *et seq.;* the Privacy Act of 1974, as amended, 88 Stat. 1896, 5 U.S.C. 552a; The Social Security Number Fraud Prevention Act, 42 U.S.C. 405 note.

■ 2. In § 1212.604, add paragraph (c) to read as follows:

* * * * *

Subpart 1212.6—Instructions for NASA Employees

§ 1212.604 Social security numbers.

* * * * *

(c) Social Security Numbers on items sent by mail.

(1) Social Security account numbers shall not be visible on the outside of any package sent by mail.

(2) A document sent by mail may only include the Social Security account number of an individual if it is determined by the Administrator that the inclusion of a Social Security account number is necessary.

(3) The inclusion of a Social Security account number of an individual on a document sent by mail is necessary when—

(i) Required by law; or

(ii) Necessary to identify a specific individual and no adequate substitute is available.

(4) Social Security account numbers must be partially redacted in documents sent by mail whenever feasible.

* * * * *

Nanette Smith,

Team Lead, NASA Directives and Regulations.

[FR Doc. 2022–16384 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 61

RIN 2900–AR35

VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations that govern its Homeless Providers Grant and Per Diem Program. This proposed rule would implement the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 by amending the allowable rate of per diem VA provides to grant recipients and eligible entities for homeless veterans and establishing a new rate for homeless veterans who care for a minor dependent by adding an additional per diem amount for each minor dependent. This proposed rule would also make technical corrections and update outdated terminology and cross-references.

DATES: Comments must be received on or before September 30, 2022.

ADDRESSES: Comments may be submitted through *www.Regulations.gov*. Comments should indicate that they are submitted in response to [''RIN 2900–AR35—VA Homeless Providers Grant and Per Diem Program.''] Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: Chelsea Watson, Director, Grant/Per Diem Program, (673/GPD), VA National Grant and Per Diem Program Office, 810 Vermont Ave. NW, Washington, DC 20420. *GPDgrants@va.gov* (813) 979–3570. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 5, 2021, section 4204 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, Public Law 116–315 (the Act), amended VA's authority for the VA Homeless Providers Grant and Per Diem (GPD) Program in 38 United States Code (U.S.C.) 2012. The GPD Program provides grants to recipients and eligible entities to provide transitional housing with supportive services for veterans experiencing homelessness as they transition to permanent housing. The purpose of the GPD Program is to promote the development and provision of supportive housing or supportive services with the goal of helping homeless veterans achieve residential stability, increase their skill levels and income, and obtain greater self-determination. Section 2012 establishes the parameters for the rate of per diem payments VA will provide to a grant recipient or eligible entity for services furnished to homeless veterans. VA implements section 2012 in regulation in 38 Code of Federal Regulations (CFR) part 61.

The Act amended the parameters in which VA can adjust the per diem amount and established an additional amount of per diem for veterans with minor dependents. Therefore, we propose to amend 38 CFR part 61 to reflect these statutory changes. We also

propose to make technical edits to part 61 and eliminate outdated terminology and cross-references.

Substantive Amendments

As noted above, VA is proposing several substantive changes to part 61 to implement the Act.

Section 61.1 Definitions

Section 61.1 of 38 CFR provides the definitions for the GPD Program. In this rulemaking, we propose to add a definition to the list of definitions in § 61.1. The Act amended section 2012 to revise subsection (a)(2)(A)(iii) to establish an additional amount available to a recipient of a grant or eligible entity for services to homeless veterans when the eligible veteran has care of a minor dependent. We would, therefore, propose to add a definition of minor dependent to clearly state who VA considers a minor dependent for purposes of this additional per diem amount.

VA conducted a review of many States and Federal agencies to determine how it should define the term minor dependent; however, we found that the States and Federal agencies have varying definitions of minor dependent. We also found that some Federal agencies, such as VA, do not define the term minor dependent, but instead define the term child. Section 101(4) of title 38, U.S.C., defines the term child for VA's purposes generally as a person who is unmarried and is (1) under the age of eighteen years; (2) who, before attaining the age of eighteen years, became permanently incapable of self-support; or (3) who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution. The definition also includes a detailed description of the required familial relationship to the veteran.

For the purposes of the definition of minor dependent for the GPD program, we propose to adopt VA's definition of child in section 101(4) with minor changes. We would define minor dependent as someone who is unmarried, is identified by the veteran as a family member when presenting for GPD services, and is either under the age of 23 years old or is 23 years old or older and became permanently incapable of self-support before reaching the age of 23. We would exclude emancipated children, as they have taken the affirmative step to establish their independence, meaning they are no longer dependents. Instead of utilizing the detailed and nuanced description of the relationship between the minor dependent and the veteran that is in section 101(4), for the purposes of the GPD program, we would permit the veteran to identify the minor dependent as a family member. This is consistent with how we administer other grant programs, such as the Supportive Services for Veteran Families Grant Program. It is also important because it would allow for flexibility for this population of veterans who may not have traditional family structures. In addition, instead of distinguishing between the age of 18 and up to 23 years old based upon completion of educational training, we would permit all individuals to be minor dependents up to 23 years old. Doing so would make it easier for veterans and their minor dependents so that no verification of educational training would be required.

Section 61.33 Payment of Per Diem

The Act amended section 2012 by adjusting the parameters under which VA can pay grant recipients and eligible entities. Section 2012(a)(2), as amended, continues to provide that the rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity, as adjusted by VA, excluding other sources of income. The Act revised section 2012(a)(2)(A) by adding an additional amount for services provided to a homeless veteran caring for a minor dependent (as discussed above). The Act also revised section 2012(a)(2)(B) to provide that any adjustment may not result in a rate that is lower than the rate in effect under this paragraph as in effect immediately preceding the date of enactment of the Navy SEAL Bill Mulder Act of 2020 (Title IV of the Act, which had a date of enactment of January 5, 2021) and may not result in a rate that exceeds the rate that is 115 percent of the rate authorized for State homes for domiciliary care under 38 U.S.C. 1741(a)(1)(A). The Act also added a new item in section 2012(a)(2)(B)(i)(II)(bb) that provided that the rate may be determined based on locality.

In this rulemaking, we propose to amend 38 CFR 61.33, regarding payment of per diem, to be consistent with the Act. Current § 61.33(c) provides the rate of per diem payment for each veteran in supportive housing shall be the lesser of: (1) the daily cost of care estimated by the per diem recipient minus other sources of payments to the per diem recipient for furnishing services to homeless veterans that the per diem recipient certifies to be correct (other sources include payments and grants from other departments and agencies of the United States, from departments of local and State governments, from private entities or organizations, and from program participants); or (2) the current VA State home program per diem rate for domiciliary care, as set by the Secretary under 38 U.S.C. 1741(a)(1). We, therefore, propose to amend paragraph (c) to align with the statutory changes made by the Act.

We would amend paragraph (c)(2) to state the maximum allowable rate is the rate as adjusted by the Secretary under 38 U.S.C. 2012(a)(2)(B)(i)(II)(aa) and made available on the program's website. Referencing the statutory citation will direct the public to the criteria, and if there is a change to the statutory language in the future, VA would not necessarily need to amend its regulations to be in alignment with the new changes. Rather, VA would maintain seamless compliance with evolving statutory authorities by implementing the necessary changes regarding the rate through Notices of Funding Opportunities (NOFO), grant agreements, and the program website. We note that the maximum rates are currently posted on the GPD Program's website which will not reflect rates that are lower than $49.91 (*https://www.va.gov/HOMELESS/GPD_ProviderRate.asp*), and we propose to continue to provide the rates on such a public-facing VA website.

The Act also established a new subsection (e) in section 2012 that allows reimbursement of certain fees charged to a recipient of a grant under section 2011, 2013, or 2061, or a recipient of per diem payments under section 2012 of title 38 for the use of the homeless management information system (HMIS) described in section 402(f) of the McKinney Vento Homeless Assistance Act (42 U.S.C. 11360a(f)) in amounts the Secretary determines reasonable, and if the Secretary determines that the grant or per diem payment recipient is unable to obtain information contained in such system through other means and at no cost to the recipient. However, the GPD program historically considered these fees to be allowable costs that could be calculated as part of the indirect or direct cost of the grant, as applicable; per diem recipients can continue to include the costs of accessing HMIS into the cost of care calculations as usual, and if HMIS costs result in a rate that exceeds the cap, those costs can be accommodated. Therefore, we would continue to include these costs in the per diem payments, and we do not believe it necessary to amend the regulations accordingly. Nevertheless,

VA understands the importance of HMIS participation and would continue to emphasize its importance to the fullest extent through other means, such as through NOFOs, grant agreements, the case management program, and other communication tools.

We note that VA published a final rule on June 25, 2021, 86 FR 33518, that inadvertently removed an exception to the rate of payment for individual veterans, in what was previously in the introductory sentence in 38 CFR 61.33(b) and in paragraph (b)(3). The omitted language should have been included in the introductory sentence of current paragraph (c) and as paragraph (c)(3). We propose to correct this omission. We would amend the introductory sentence of paragraph (c) to now add an exception under paragraph (c)(3). We are also proposing to add a new paragraph (c)(3) to restate the exception that was omitted in the prior final rule with no edits to the language aside from correcting the citation from paragraph (b)(1) to reference paragraph (c)(1). Paragraph (c)(3) would state for a veteran who is placed in housing that will become permanent housing for that veteran upon termination of supportive housing services, the rate of payment shall be the lesser of 150 percent of the current VA State home program per diem rate for domiciliary care, as set by the Secretary under 38 U.S.C. 1741(a)(1) or the daily cost of care estimated pursuant to paragraph (c)(1) of this section.

As previously noted, the Act added a new item in section 2012(a)(2)(B)(i)(II)(bb) that provided that the rate may be determined based on locality. VA is not exercising this authority at this time.

In this rulemaking we also propose to add a new paragraph (d) to address the rate of payment for a veteran who has care of one or more minor dependents. The Act established that, for purposes of calculating the rate for per diem payments, in the case of a homeless veteran who has care of a minor dependent while receiving services from the grant recipient or eligible entity, the daily cost of care of the homeless veteran shall be the sum of the daily cost of care of the homeless veteran plus, for each such minor dependent, an amount that equals 50 percent of such daily cost of care. See 38 U.S.C. 2012(a)(2)(A)(iii). For clarity and consistency with our current regulatory structure, VA believes it would be more appropriate to create a separate paragraph for the additional rate for veterans who have minor dependents when implementing this provision.

The rate would be calculated by determining the rate of the individual veteran pursuant to paragraph (c) and then adding 50 percent of that rate for each minor dependent. Instead of specifically stating that we would add 50 percent of the rate for each minor dependent, we would cite to the statutory authority at 38 U.S.C. 2012(a)(2)(A)(iii). Referencing the statutory authority could allow for VA to quickly make any changes to the rate structure were Congress to make any future amendments to how the rate should be calculated. In addition, we would state that the additional rate would be made available on the GPD Program's website. Proposed paragraph (d) would also require that the veteran be receiving services from the grant recipient or eligible entity, consistent with the Act, and would require the minor dependent to occupy a bed on the same day for which a veteran-care rate is paid. This would be consistent with the language in section 2012(a)(2)(A)(iii).

Technical Edits

In addition to the substantive changes discussed above, VA also proposes a number of technical or grammatical amendments to part 61.

Notice of Funding Opportunity

We propose to make technical edits throughout part 61 to replace the term Notice of Fund Availability or NOFA with Notice of Funding Opportunity. We would be making these edits to mirror the term as it is used in other sections of the CFR, specifically 2 CFR 200.204, which governs Notices of Funding Opportunity for discretionary grants and cooperative agreements. These edits would not change the meaning of the definition as stated in § 61.1. For this reason, we propose to amend §§ 61.1, 61.3, 61.11, 61.12, 61.14, 61.15, 61.18, 61.31, 61.32, 61.41, 61.51, 61.52, 61.54, and 61.92.

Capitalization of the Term State

Part 61 of 38 CFR does not consistently capitalize the term State as it applies to one of the 50 States, Commonwealths, or territories of the United States. As such, we propose to capitalize the term State by amending §§ 61.1, the definitions of public entity and State, 61.11(b)(6), 61.13(d)(10), (f), and (g), 61.15(a)(6) and (a)(7), 61.31(b)(4), 61.51(b)(6), 61.53(c)(6), 61.61(e), 61.62(c), 61.80(a) and (b)(4), 61.92(d)(7), (f), and (g).

Section 61.1 Definitions

We propose to remove the term area or community from the list of definitions in § 61.1. VA defines the term area or community as a political subdivision or contiguous political subdivisions (such as a precinct, ward, borough, city, county, State, Congressional district, etc.) with a separately identifiable population of homeless veterans. We propose to remove the definition of area or community because VA no longer relies on the area or community as the term is currently defined. Instead, VA relies on the VA medical facility areas, which are stated in the NOFOs.

We propose to remove the term fixed site from the list of definitions in § 61.1. VA defines the term fixed site to mean a physical structure that under normal conditions is not capable of readily being moved from one location to another location. VA believes that this term can rely on the common dictionary definition of the term and does not see that any additional clarification is provided by this regulatory definition.

We propose to make a technical correction to the definition of homeless in § 61.1 by correcting the statutory citation at the end of the definition. In the current definition, we define homeless to have the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)). To correct the citation, we propose to add subsections (b) and (d) after the citation to section 11302(a) to now state 42 U.S.C. 11302(a), (b), and (d). This correction is made to include relevant clarifications from the law about the definition of homeless. No other edits to the meaning of this paragraph would be intended by this change.

As previously stated in this rulemaking, we propose to amend the term Notice of Fund Availability to now state Notice of Funding Opportunity. In addition, we also propose to clarify that Notices of Funding Opportunities are published on the Office of Management and Budget (OMB)-designated website (as required by 2 CFR 200.204 and OMB's Management Procedures Memorandum No. 2021–01). We propose to make this edit because grant opportunities generally are no longer published in the **Federal Register**, but rather they are posted on the *Grants.gov* website. We would not specify the website address in case the website changes again in the future. No other edits to the meaning of this paragraph would be intended by this change.

We propose to remove the definition of the term rehabilitation in the list of definitions in § 61.1. VA defines the term rehabilitation to mean the improvement or repair of an existing structure but excludes minor or routine

repairs. This definition is no longer indicative of what rehabilitation means for GPD grants. The term rehabilitation can have a variety of meanings, which would depend on the scope of a particular funding opportunity. As such, we would omit the definition in the regulation and continue to define rehabilitation in the NOFO, as needed.

We propose to remove the definition of the term total project cost from the list of definitions in § 61.1. VA defines the term total project cost to mean the sum of all costs incurred by a recipient for the acquisition, rehabilitation, and new construction of a facility, or van(s), identified in a grant application. VA believes that this definition of the term is no longer broadly applicable to GPD projects because the types of projects have expanded beyond capital projects. Furthermore, Federal-wide cost principles for grants adequately define what constitutes total costs in 2 CFR 200.402. Therefore, additional clarification would not be provided by the current definition.

Section 61.12 Capital Grant Application Packages—Threshold Requirements

Section 61.12 establishes the threshold requirements that must be met for the capital grants program. Paragraph (e) states that the application must demonstrate compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655). However, because the timeline between application and award is usually several months, the actual property that will be acquired is typically not determined until after the capital grant has been awarded. As a result, compliance with the URA would occur after VA awards a capital grant at the time the grantee demonstrates site control before receiving capital grant payments. Therefore, VA believes that this compliance requirement would be best placed under site control in § 61.17. This proposed amendment would not change current practice. We, therefore, propose to remove paragraph (e) from § 61.12 and redesignate current paragraphs (f) through (i) as new paragraphs (e) through (h), respectively. We would also add a new paragraph (b) to § 61.17 to state the site must be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655). No changes in the meaning of this paragraph would be made by this change. We would also redesignate current paragraphs § 61.17(b) and (c) as new paragraphs (c) and (d), respectively.

Section 61.13 Capital Grant Application Packages—Rating Criteria

Section 61.13 establishes the rating criteria for the capital grant. Paragraph (g) contains the rating criterion addressing coordination with other programs. Paragraph (g) states that VA will award up to 200 points based on the extent to which applicants demonstrate that they have coordinated with Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project; it then lists examples of such entities. In addition, it states that applicants are required to demonstrate that they have coordinated with the VA medical care facility of jurisdiction and/or VA Regional Office of jurisdiction in their area. We propose to remove the reference to the VA Regional Office of jurisdiction in their area because the GPD program is coordinated by the Veterans Health Administration via the VA medical facilities and not VA Regional Offices. Therefore, we propose to state that applicants are required to demonstrate that they have coordinated with the VA medical facility of jurisdiction.

Paragraph (g) also specifies that VA will award up to 50 points of the 200 points based on the extent to which commitments to provide supportive services are documented at the time of application. Up to 150 points of the 200 points will be given to the extent applicants demonstrate that: (1) they are part of an ongoing community-wide planning process within the framework described above which is designed to share information on available resources and reduce duplication among programs that serve homeless veterans; (2) they have consulted directly with the closest VA Medical Center and other providers within the framework described above regarding coordination of services for project participants; and (3) they have coordinated with the closest VA Medical Center their plan to assure access to health care, case management, and other care services. We propose to remove these specific criteria because that information is not useful in reviewing, scoring, and selecting high-quality applications. We believe that the portion of paragraph (g) we propose to remain in the rule would continue to hold applicants accountable for coordinating with other programs but would provide the necessary flexibility for VA reviewers to score those applications based on the type and quality of coordination that will result in the best services for veterans even as changes to how communities are organized may arise. We also would make a minor grammatical edit for clarity by adding a comma after ''private'' in the list of entities serving homeless persons.

Section 61.15 Capital Grants—Obtaining Additional Information and Awarding Capital Grants

Section 61.15 establishes the procedures for obtaining additional information for the capital grants, as necessary, and for awarding such grants. Paragraph (a)(4) requires that the applicant submit documentation establishing compliance with the National Historic Preservation Act (NHPA) (16 U.S.C. 470). However, this citation is no longer correct as the provisions of the NHPA were moved by Public Law 113–287 (December 19, 2014). The correct statutory citation is 54 U.S.C. 300101 *et seq*. Part 106 of the NHPA (54 U.S.C. 306108) requires Federal agencies to take into account the effects of an undertaking on historic properties. Regulations implementing part 106 (36 CFR part 800) provide how Federal agencies meet this statutory responsibility. We propose to amend paragraph (a)(4) with the current NHPA citation and to state that the applicant may be asked to submit documentation establishing compliance with 36 CFR part 800, the regulations implementing section 106 of the NHPA (54 U.S.C. 306108). No other change to the meaning of this paragraph would be intended by this change.

Paragraph (a)(5) requires the applicant to submit information necessary for VA to ensure compliance both with Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act (ADA) Accessibility Guidelines. In 1968, VA was a major advocate for The Architectural Barriers Act, Public Law 90–480, which ensured that buildings financed with Federal funds were so designed and constructed as to be accessible to everyone. This law required all construction, renovation, or leasing with Federal funds meet Uniform Federal Accessibility Standards (UFAS). These standards brought all Federal agencies under a common accessibility guideline for the first time. The Americans with Disabilities Act (ADA) of 1990 set accessibility requirements for State and local government, as well as private sector projects, similar to the requirements set for Federal projects through the Architectural Barriers Act. Today, VA follows U.S. General Services Administration and other standard-setting agencies in replacing UFAS with the Architectural Barriers Act Accessibility Standard (ABAAS) for

Federal facilities. As such, we propose to amend paragraph (a)(5) to now state that the applicant must ensure compliance both with Architectural Barriers Act Accessibility Standards and the Americans with Disabilities Act Accessibility Guidelines. This is not a substantive change for applicants, and no other change to the meaning of this paragraph would be intended by this change.

Paragraph (a)(8) requires the applicant, as necessary, to ensure compliance with the provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR parts 1500–1508). As required by NEPA, VA established agency-specific procedures to implement the requirements of NEPA at 38 CFR part 26. We propose to amend paragraph (a)(8) to also reference VA's implementing regulations and to direct the reader to the NEPA requirements specific to VA. Therefore, we propose to amend paragraph (a)(8) to state that the applicant, as necessary, must submit information necessary for VA to ensure compliance with the NEPA, the generally applicable regulations implementing NEPA (40 CFR parts 1500–1508), and VA's agency-specific regulations implementing NEPA (38 CFR part 26). No other change to the meaning of this paragraph would be intended by this change.

Section 61.80 General Operation Requirements for Supportive Housing and Service Centers

We propose to revise paragraph (a) of § 61.80 to be consistent with 38 U.S.C. 2011(b)(5)(B). Paragraph (a) of § 61.80 does not contain the statutory phrase ''or such other comparable fire and safety requirements as the Secretary may specify'' and only references the Life Safety Code of the National Fire Protection Association. Including the statutory language in the regulation would more closely follow the language of the statute and would continue to ensure the safety of veterans who reside in supportive housing or who receive support from service centers. No other edits to the meaning of this paragraph would be intended by this change.

Section 61.92 Grant for Case Management Services—Application and Rating Criteria

Section 61.92 establishes the application and rating criteria for grants for case management services. We propose to make a technical edit to § 61.92(b) to correct a typographical error. Paragraph (b) states that to be eligible for a case management grant, an applicant must receive at least 750 points (out of a possible 1000) and must receive points under paragraphs (c) through (f) of this section. This paragraph should have referenced paragraphs (c) through (g) of this section, not paragraphs (c) through (f), and we propose to make this edit. As previously stated, we would also revise the term Notice of Fund Availability (NOFA) to now state Notice of Funding Opportunity, where it appears in this section. No other edits to the meaning of this section would be intended by this change.

As stated, paragraphs (c) through (g) list the rating criteria for applicants. Paragraph (g) provides the criteria addressing coordination with other programs and states VA will award up to 200 points based on the extent to which the applicant demonstrates that it has coordinated with Federal, State, local, private, and other entities serving homeless persons or persons at risk for homelessness in the planning and operation of the case management services project; it then lists examples of such entities. In addition, it states that applicants are required to demonstrate that they have coordinated with the VA medical care facility of jurisdiction or VA Regional Office of jurisdiction in their area. We propose to remove the reference to the VA Regional Office of jurisdiction in their area because the GPD program is coordinated by the Veterans Health Administration via the VA medical facilities and not VA Reginal Offices. Therefore, we propose to state that applicants are required to demonstrate that they have coordinated with the VA medical facility of jurisdiction.

Paragraph (g) further specifies that VA will award up to 50 points of the 200 points based on the extent to which commitments to provide supportive services are documented at the time of application. Up to 150 points of the 200 points will be given to the extent applicants demonstrate that: (1) they are part of an ongoing community-wide planning process within the framework described in this section, which is designed to share information on available resources and reduce duplication among programs that serve homeless veterans (*e.g.,* Continuum of Care); (2) they have consulted directly with the closest VA medical facility and other providers within the framework described in this section regarding coordination of services for project participants; and (3) they have coordinated with the closest VA medical facility their plan to assure access to health care, case management, and other care services. We propose to remove these specific criteria because, as previously stated in this rulemaking, this information is not useful in reviewing, scoring, and selecting high-quality applications. We believe that the portion of paragraph (g) we propose to retain in the rule would continue to hold applicants accountable for coordinating with other programs but would provide the necessary flexibility for VA reviewers to score those applications based on the type and quality of coordination that will result in the best services for veterans even as changes to how communities are organized may arise.

We also make other minor grammatical edits for clarity, such as in section 61.32, removing a comma and adding the word ''the''.

In addition, § 61.92 currently contains an incomplete Office of Management and Budget (OMB) information collection control number. The information collection in this regulation has been approved by OMB and has been assigned OMB control number 2900–0554. We propose to update § 61.92 to correctly reflect OMB's control number.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this proposed rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The provisions associated with this rulemaking do not involve costs to small entities because the GPD Program provides Federal awards (*e.g.,* grant money) to small entities. Although the small entities must apply for Federal

awards, there are no out-of-pocket expenses (*e.g.,* no filing fees) created by this rulemaking. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule would amend 38 CFR 61.11, 61.12, 61.15, 61.31, 61.41, 61.51, 61.80, and 61.92, which contain provisions constituting collections of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). However, no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for §§ 61.11, 61.12, 61.15, 61.31, 61.41, 61.51, 61.80, and 61.92 are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0554. However, in earlier rulemakings, VA did not update § 61.92 to correctly reflect OMB control number 2900–0554. As noted above, we propose to correct this omission through this rulemaking by updating the reference in § 61.92 to OMB control number 2900–0554.

Assistance Listing

The Assistance Listing number and title for the program affected by this document is 64.024, VA Homeless Providers Grant and Per Diem Program.

List of Subjects in 38 CFR Part 61

Administrative practice and procedure, Alcohol abuse, Alcoholism, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on July 13, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 61 as set forth below:

PART 61—VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM

■ 1. The authority citation for part 61 is revised to read as follows:

Authority: 38 U.S.C. 501, 2001, 2002, 2011, 2012, 2013, 2061, and 2064.

■ 2. Amend § 61.1 by:
■ a. Removing the definitions of *Area or community* and *Fixed site.*
■ b. Revising the definition of *Homeless.*
■ c. Adding a definition for *Minor dependent* in alphabetical order.
■ d. Removing the definition of *Notice of Fund Availability (NOFA)* and adding a definition for *Notice of Funding Opportunity* in alphabetical order.
■ e. In paragraph (1) of the definition of *Public entity,* removing the term ''state law'' and adding in its place ''State law''.
■ f. Removing the definition of *Rehabilitation.*
■ g. In the definition of *State,* removing the terms ''state'' and ''states'' and adding in their place the terms ''State'' and ''States'' wherever they appear.
■ h. Removing the definition of *Total project cost.*

The revisions and additions read as follow:

§ 61.1 Definitions.

* * * * *

Homeless has the meaning given that term in section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a), (b), and (d)).

Minor dependent means someone who is unmarried, is not an emancipated minor, is identified by the veteran as a family member when presenting for GPD services, and:

(1) Is under age 23; or

(2) Is age 23 or over and became permanently incapable of self-support before the age of 23.

* * * * *

Notice of Funding Opportunity means a notice published on the Office of Management and Budget-designated government-wide website announcing the availability of Federal funding in accordance with § 61.3.

* * * * *

■ 3. Amend § 61.3 by revising the section heading and introductory text to read as follows:

§ 61.3 Notice of Funding Opportunity.

When funds are made available for a grant or per diem award under this part, VA will publish a Notice of Funding Opportunity in the Office of Management and Budget-designated government-wide website and the program's website. The notice will:

* * * * *

§ 61.11 [Amended]

■ 4. Amend § 61.11 by:
■ a. In paragraph (a), removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.
■ b. In paragraph (b)(6), removing the term ''state'' and adding in its place the term ''State'' wherever it appears.

§ 61.12 [Amended]

■ 5. Amend § 61.12 by:
■ a. In paragraphs (a)(2) and (4), removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.
■ b. Removing paragraph (e) and redesignating paragraphs (f) through (i) as paragraphs (e) through (h), respectively.
■ 6. Amend § 61.13 by:
■ a. In paragraphs (d)(10) and (f), removing the term ''state'' and adding in its place the term ''State''.
■ b. Revising paragraph (g).

The revision reads as follows.

§ 61.13 Capital grant application packages—rating criteria.

* * * * *

(g) *Coordination with other programs.* VA will award up to 200 points based on the extent to which applicants demonstrate that they have coordinated with Federal, State, local, private, and other entities serving homeless persons in the planning and operation of the project. Such entities may include shelter transitional housing, health care, or social service providers; providers funded through Federal initiatives; local planning coalitions or provider associations; or other program providers relevant to the needs of homeless veterans in the local community. Applicants are required to demonstrate that they have coordinated with the VA medical facility of jurisdiction.

* * * * *

§ 61.14 [Amended]

■ 7. Amend § 61.14 by, in paragraph (a), removing the term ''NOFA'' and adding in its place the term ''Notice of Funding Opportunity''.

§ 61.15 [Amended]

■ 8. Amend § 61.15 by:
■ a. In paragraph (a)(4), removing ''the National Historic Preservation Act (16 U.S.C. 470)'' and adding in its place ''36 CFR part 800, the regulations implementing section 106 of the National Historic Preservation Act (54 U.S.C. 306108)''.
■ b. In paragraph (a)(5), removing ''Uniform Federal Accessibility Standards (UFAS)'' and adding in its place ''Architectural Barriers Act Accessibility Standards (ABAAS)''.
■ c. In paragraphs (a)(6) and (7), removing the term ''state'' and adding in its place the term ''State''.
■ d. In paragraph (a)(8), removing ''provisions of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*)'' and adding in its place ''the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), the generally applicable regulations implementing the NEPA (40 CFR parts 1500 through 1508), and VA's regulations implementing the NEPA (38 CFR part 26)''.
■ e. In paragraph (b), removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.
■ 9. Amend § 61.17 by redesignating paragraphs (b) and (c) as paragraphs (c) and (d) and adding a new paragraph (b) to read as follows.

§ 61.17 Site control for capital grants.

* * * * *

(b) The site must be in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655).

* * * * *

§ 61.18 [Amended]

■ 10. Amend § 61.18, in paragraph (a), by removing the term ''NOFA'' and adding in its place the term ''Notice of Funding Opportunity''.

§ 61.31 [Amended]

■ 11. Amend § 61.31 by:
■ a. In paragraph (b), removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.
■ b. In paragraph (b)(4), removing the term ''state'' and add in its place the term ''State'' wherever it appears.
■ 12. Amend § 61.32 by revising paragraph (a) to read as follows.

§ 61.32 Per diem application packages—rating criteria.

(a) *Conditional selection.* Application packages for per diem only (*i.e.,* from non-capital grant applicants) in response to a Notice of Funding Opportunity will be reviewed and grouped in categories according to the funding priorities set forth in the Notice of Funding Opportunity, if any. Such applications will then be ranked within their respective funding category according to scores achieved only if the applicant scores at least 750 cumulative points out of a possible 1000 from each of the following paragraphs: (b), (c), (d), (e), (f), and (g) of § 61.13. The highest-ranked applications for which funding is available, within the highest funding priority category if applicable, will be conditionally selected for eligibility to receive per diem payments or special need payment in accordance with their ranked order. If funding priorities have been established and funds are still available after selection of those applicants in the highest priority group, VA will continue to conditionally select applicants in lower priority categories in accordance with the selection method set forth in this paragraph subject to available funding. Conditional selectees will be subsequently awarded per diem if they otherwise meet the requirements of this part, including passing the inspection required by § 61.80.

* * * * *

■ 13. Amend § 61.33 by:
■ a. Revising paragraphs (c) introductory text and (c)(2).
■ b. Adding paragraph (c)(3).
■ c. Redesignating paragraphs (d) through (h) as paragraphs (e) through (i) and adding a new paragraph (d).

The revisions and additions read as follows:

§ 61.33 Payment of per diem.

* * * * *

(c) *Rate of payments for individual veterans.* Except as provided in paragraph (c)(3) of this section, the rate of per diem for each veteran in supportive housing shall be the lesser of:

* * * * *

(2) The maximum allowable rate as adjusted by the Secretary under 38 U.S.C. 2012(a)(2)(B)(i)(II)(aa) and made available on the program's website.

(3) For a veteran who is placed in housing that will become permanent housing for that veteran upon termination of supportive housing services, the rate of payment shall be the lesser of 150 percent of the current VA state home program per diem rate for domiciliary care, as set by the Secretary under 38 U.S.C. 1741(a)(1), or the daily cost of care estimated pursuant to paragraph (c)(1) of this section.

(d) *Rate of payment for a veteran who has care of a minor dependent.* The per diem rate for a veteran who has care of a minor dependent while such veteran is receiving services from a grant recipient or eligible entity will be the sum of the rate in paragraph (c) of this section and an additional amount for each minor dependent as determined pursuant to 38 U.S.C. 2012(a)(2)(A)(iii) and made available on the program's website. Such additional amount will only be added when the minor dependent is occupying a bed on the same day that a veteran-care rate is charged to the grant.

* * * * *

§ 61.41 [Amended]

■ 14. Amend § 61.41, in paragraph (a), by removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.

§ 61.51 [Amended]

■ 15. Amend § 61.51 by:
■ a. In paragraph (a), removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.
■ b. In paragraph (b)(6), removing the term ''state'' and adding in its place the term ''State'' wherever it appears.

§ 61.52 [Amended]

■ 16. Amend § 61.52, in paragraph (a), by removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.

§ 61.53 [Amended]

■ 17. Amend § 61.53 by, in paragraph (c)(6), removing the term ''state'' and adding in its place the term ''State''.

§ 61.54 [Amended]

■ 18. Amend § 61.54 by:
■ a. In paragraph (a), removing the term ''NOFA'' and adding in its place the term ''Notice of Funding Opportunity''.
■ b. In paragraph (d), removing the term ''Notice of Fund Availability'' and adding in its place the term ''Notice of Funding Opportunity''.

§ 61.61 [Amended]

■ 19. Amend § 61.61, in paragraph (e), by removing the term ''state'' and adding in its place the term ''State''.

§ 61.62 [Amended]

■ 20. Amend § 61.62 by, in paragraph (c), removing the term ''state'' and adding in its place the term ''State''.
■ 21. Amend § 61.80 by:
■ a. Revising paragraph (a).

■ b. In paragraph (b)(4), removing the term ''state'' and adding in its place the term ''State''.

The revision reads as follows.

§ 61.80 General operation requirements for supportive housing and service centers.

(a) Supportive housing and service centers for which assistance is provided under this part must comply with the requirements of the current edition of the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify and all applicable State and local housing codes, licensing requirements, fire and safety requirements, and any other requirements in the jurisdiction in which the project is located regarding the condition of the structure and the operation of the supportive housing or service centers. Note: All facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code or under other comparable fire and safety requirements as the Secretary may specify.

* * * * *

■ 22. Amend § 61.92 by:

■ a. In paragraph (a) introductory text, removing the phrase ''Notice of Fund Availability (NOFA) in the **Federal Register**'' and adding in its place ''Notice of Funding Opportunity on the Office of Management and Budget-designated government-wide website''.

■ b. In paragraphs (a)(1) and (3), removing the term ''NOFA'' wherever it appears and adding in its place ''Notice of Funding Opportunity''.

■ c. In paragraph (b), removing the phrase ''paragraphs (c) through (f)'' and adding in its place ''paragraphs (c) through (g)''.

■ d. In paragraphs (d)(7) and (f), removing the term ''state'' and adding in its place the term ''State'' wherever it appears.

■ e. Revising paragraph (g).

■ f. Revising the parenthetical at the end of the section.

The revisions read as follows:

§ 61.92 Grant for case management services—application and rating criteria.

* * * * *

(g) *Coordination with other programs.* VA will award up to 200 points based on the extent to which the applicant demonstrates that it has coordinated with Federal, State, local, private, and other entities serving homeless persons or persons at risk for homelessness in the planning and operation of the case management services project. Such entities include, but are not limited to, shelters, transitional housing, Public Housing Authorities, health care or social service providers, providers funded through Federal initiatives, local planning coalitions or provider associations, or other program providers relevant to the needs of formerly homeless veterans in the local community. Applicants are required to demonstrate that they have coordinated with the VA medical facility of jurisdiction.

(Approved by the Office of Management and Budget under control number 2900–0554.)

[FR Doc. 2022–16370 Filed 7–29–22; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0391; FRL–10080–01–R4]

Air Plan Approval; Kentucky; Source Specific Revision for Jefferson County

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), on March 29, 2021. The proposed revision was submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (District or Jefferson County), which has jurisdiction over Jefferson County, Kentucky. The proposed revision would remove from the SIP several source-specific permits for a facility in the county that were previously incorporated by reference and replace them with a Board Order with emissions controls that are at least as stringent as those in the permits.

DATES: Comments must be received on or before August 31, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2017–0391 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joel Huey, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Huey can be reached by telephone at (404) 562–9104 or via electronic mail at *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What action is EPA proposing?

EPA is proposing to approve changes to the Kentucky SIP that were received by EPA on March 29, 2021. Kentucky's March 29, 2021, submittal seeks to remove from the SIP permits that are currently held by LL Flex, LLC, Louisville Laminating Plant (LL Flex) in Louisville, Kentucky, and that contain a volatile organic compound (VOC) bubble [1] for the facility to meet Reasonably Available Control Technology (RACT) requirements. At the same time, this revision seeks to replace those permits with a Board Order issued by the Air Pollution Control Board (Board) of Jefferson County.

II. What is the background and EPA's analysis for the proposed action?

In 1990, EPA approved a revision to the Kentucky SIP that added an emission reduction plan in the form of a ''bubble rule'' for the Alcan Foil Products [2] (now LL Flex) plant in

[1] EPA's ''bubble policy'' was originally established in 1979, *see* 44 FR 71779 (December 11, 1979), and later replaced as part of the final Emissions Trading Policy Statement (ETPS) in 1986, *see* 51 FR 43814 (December 4, 1986). A January 2001 EPA guidance document, ''Improving Air Quality with Economic Incentive Programs,'' describes various types of Economic Incentive Programs that may provide sources with a flexible, cost-effective way of meeting existing SIP requirements. This document states that it supersedes EPA's 1986 ETPS (and some other documents) but that such earlier documents may provide supplementary information and useful background when designing an Economic Incentive Program.

[2] The company, originally named Alcan Foil Products, later became Reynolds Metals Company, then LL Flex, LLC.

Louisville, Kentucky. *See* 55 FR 20268 (May 16, 1990). That revision allowed the facility to average, or ''bubble,'' VOC emissions from nine rotogravure printing/coating machines in lieu of achieving compliance with Jefferson County's SIP-approved graphic arts VOC RACT regulation—Regulation 6.29, ''Standard of Performance for Existing Graphic Arts Facilities Using Rotogravure and Flexography''—on a line-by-line [3] basis. The revision treated the nine machines as one affected facility and required the facility to achieve a VOC emissions reduction equivalent to at least 20 percent of the baseline emissions from the affected units.[4] Jefferson County included these provisions in permits issued by the District to Alcan Foil Products (now LL Flex), and those permits were incorporated by reference into the Kentucky SIP. Specifically, the May 16, 1990, approval incorporated into the SIP the Air Pollution Control District of Jefferson County's (APCDJC's) Permits 103–74, 104–74, 105–74, 106–74, 110–74, and 111–74, as effective on February 28, 1990.

Subsequently, in 1998, EPA approved a revision to the Kentucky SIP that provided additional flexibilities in plant operations of Reynolds Metals Company (now LL Flex) so that customer printing demands could be satisfied. *See* 63 FR 1927 (January 13, 1998). The revision lowered the daily maximum VOC emissions allowed from the facility's nine rotogravure printing/coating machines but retained the 266.2 tons per year limit for the facility and increased the number of operating days allowed. Additionally, the revision removed the maximum operating speeds for the nine machines. Jefferson County included these provisions in permits issued by the District to Reynolds Metals Company, and those permits were incorporated by reference into the Kentucky SIP. Specifically, the January 13, 1998, approval incorporated into the SIP updates to the previously approved APCDJC Permits 103–74, 104–74, 105–74, 106–74, 110–74, and 111–74, as effective on April 16, 1997.

Jefferson County has chosen to submit a SIP revision to remove the permits incorporated by reference and replace them with a Board Order, which was issued by the District to the facility on November 18, 2020, and which imposes control requirements that are at least as stringent than those in the permits.[5] [6] This way, the Board Order would become the source-specific SIP-approved provision, and any future amendments made by the District to the facility's permits for matters that are unrelated to the Board Order conditions will not necessitate a SIP revision.

EPA has reviewed the Board Order and preliminarily determined that it achieves a level of VOC emissions control that is at least as stringent as the requirements of the permits that were incorporated by reference into the SIP in 1990 and revised in 1998. Specifically, EPA notes the following similarities and differences between the Board Order proposed for incorporation into the SIP and the permits proposed for removal from the SIP: (1) the Board Order applies to eight of the nine machines that are identified in Condition 2 of the permits—one of the nine original machines (number 16) has been removed from the facility and will no longer be operated; (2) the Board Order continues to allow the machines to operate 365 days per year; (3) while Condition 5.f of the permits requires that compliance reports be submitted to the District monthly, the Board Order allows semiannual compliance reporting, which is consistent with EPA's 1999 Recordkeeping and Reporting Burden Reduction rulemaking, *see* 64 FR 7458 (February 12, 1999); (4) the Board Order continues to limit VOC emissions to 1,458 pounds per day and 266.2 tons per year; (6) Condition 7 of the permits requires the machine owner or operator to comply with a daily RACT allowable limitation for all inks and coatings used of 65 percent by weight control for solvent-based inks run on the machines within the bubble, usage of 75 percent water by volume in the volatile portion of water-based coatings/inks, or usage of high solids content coatings/inks with greater than 60 percent nonvolatile material on a water-free basis. The Board Order retains this requirement but adds a new compliance option allowing for all inks and coatings to contain no more than 0.5 pounds of VOC per pound of solids, which is consistent with SIP-approved Rule 6.29, Section 3, provision 3.1.3 (*see* 58 FR 54516 (October 22, 1993) and 82 FR 47376 (October 12, 2017)).[7] The SIP revision includes a quantitative analysis from LL Flex demonstrating that this option, if utilized, would not increase VOC emissions.[8]

EPA has preliminarily determined that approval of this SIP revision would not increase air pollutant emissions from LL Flex and will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable Clean Air Act (CAA) requirement based on LL Flex's quantitative demonstration and on the nature of the differences between the Board Order and the SIP-approved permits, as modified in 1998.

III. Incorporation by Reference

In this action, EPA is proposing to include in a final EPA rule amended regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, as described in Sections I and II of the preamble, EPA is proposing the incorporation by reference of Jefferson County's source-specific Board Order for LL Flex, LLC, effective on November 18, 2020. Also in this document, EPA is proposing to remove APCDJC Permits 103–74, 104–74, 105–74, 106–74, 110–74, and 111–74, effective on February 28, 1990, for Alcan Foil Products and effective on April 16, 1997, for the Reynolds Metals Company, from the Kentucky SIP, which were incorporated by reference in accordance with requirements of 1 CFR 51.5. EPA has made, and will continue to make, the SIP generally available at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the March 29, 2021, SIP revision and replace the existing source-specific permits for the LL Flex facility in the Kentucky SIP with the November 18, 2020, Board Order.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations.

[3] ''Line'' refers to ''printing line,'' which is defined, in part, as ''a series of processes, and the associated process equipment, used to apply, dry, and cure an ink containing a VOC.'' *See* Definition 1.8 of Regulation 6.29, Section 1.

[4] As described in the notice of proposed rulemaking for the 1990 action, ''Baseline emissions were determined using the lowest of actual, SIP-allowable or RACT-allowable emissions for each source involved in the bubble, with values for the actual quantity of VOC content of coatings used based on the most recent two-year period.'' *See* 55 FR 2842 (January 29, 1990).

[5] The November 18, 2020, Board Order also formally changes the name of the owner to LL Flex, LLC, and the name of the facility to LL Flex, LLC, Louisville Laminating Plant.

[6] Found under 40 CFR 52.920(d), the old permits being proposed for removal are approved in the Kentucky SIP as ''Operating Permits for nine presses at the Alcan Foil Products facility—Louisville'' and ''Reynolds Metals Company.''

[7] *See* ''LL Flex permits and ABO comparison'' in the docket for this proposed rulemaking for a more detailed comparison of the permits and the new Board Order.

[8] *See* 20200228_LLFlex_ems_calcs.xlsx in the docket for this proposed rulemaking.

See 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–16427 Filed 7–29–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Chapter IV

[CMS–4203–NC]

RIN 0938–AV01

Medicare Program; Request for Information on Medicare

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human (HHS).

ACTION: Request for information.

SUMMARY: This request for information seeks input from the public regarding various aspects of the Medicare Advantage program. Responses to this request for information may be used to inform potential future rulemaking or other policy development.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by August 31, 2022.

ADDRESSES: In commenting, refer to file code CMS–4203–NC.

Comments, including mass comment submissions, must be submitted in *one* of the following three ways (please choose only *one* of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4203–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4203–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Andrew Siske (410) 786–4263.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

The Vision for Medicare (*https://www.cms.gov/blog/building-cms-strategic-vision-working-together-stronger-medicare*) puts the person at the center of care and drives towards a future where people with Medicare receive more equitable, high quality, and whole-person care that is affordable and sustainable. Through this Request for Information (RFI), the Centers for Medicare & Medicaid Services (CMS) is seeking feedback on ways to strengthen Medicare Advantage (MA) in ways that align with the Vision for Medicare and the CMS Strategic Pillars (*https://www.cms.gov/cms-strategic-plan*). An additional goal of this RFI is to create more opportunities for stakeholders to engage with CMS, in line with the agency's Strategic Pillars that prioritize increased engagement with our partners and the communities we serve throughout the policy development and implementation process. We encourage input from a wide variety of voices on the questions below, including beneficiary advocates, plans, providers, community-based organizations,

researchers, employers and unions, and all other stakeholders.

II. Solicitation of Public Comments

A. Advance Health Equity

CMS defines health equity as ''the attainment of the highest level of health for all people, where everyone has a fair and just opportunity to attain their optimal health regardless of race, ethnicity, disability, sexual orientation, gender identity, socioeconomic status, geography, preferred language, or other factors that affect access to care and health outcomes'' (*https://www.cms.gov/pillar/health-equity*). The CMS Framework for Health Equity (*https://www.cms.gov/About-CMS/Agency-Information/OMH/equity-initiatives/framework-for-health-equity*) lays out how CMS is working to advance health equity by designing, implementing, and operationalizing policies and programs that support health for all the people served by our programs, eliminating avoidable differences in health outcomes experienced by people who are disadvantaged or underserved, and providing the care and support that our enrollees need to thrive. We seek feedback regarding how we can enhance health equity for all enrollees through MA.

1. What steps should CMS take to better ensure that all MA enrollees receive the care they need, including but not limited to the following:

- Enrollees from racial and ethnic minority groups.
- Enrollees who identify as lesbian, gay, bisexual, or another sexual orientation.
- Enrollees who identify as transgender, nonbinary, or another gender identity.
- Enrollees with disabilities, frailty, other serious health conditions, or who are nearing end of life.
- Enrollees with diverse cultural or religious beliefs and practices.
- Enrollees of disadvantaged socioeconomic status.
- Enrollees with limited English proficiency or other communication needs.
- Enrollees who live in rural or other underserved communities.[1]

2. What are examples of policies, programs, and innovations that can advance health equity in MA? How could CMS support the development and/or expansion of these efforts and what data could better inform this work?

3. What are effective approaches in MA for screening, documenting, and furnishing health care informed by social determinants of health (SDOH)? [2] Where are there gaps in health outcomes, quality, or access to providers and health care services due partially or fully to SDOH, and how might they be addressed? How could CMS, within the scope of applicable law, drive innovation and accountability to enable health care that is informed by SDOH?

4. What have been the most successful methods for MA plans to ensure access to language services for enrollees in different health care settings? Where is improvement needed?

5. What socioeconomic data do MA plans leverage to better understand their enrollees and to inform care delivery? What are the sources of this data? What challenges exist in obtaining, leveraging, or sharing such data?

6. For MA plans and providers that partner with local community-based organizations (for example, food banks, housing agencies, community action agencies, Area Agencies on Aging, Centers for Independent Living, other social service organizations) and/or support services workers (for example, community health workers or certified peer recovery specialists) to meet SDOH of their enrollees and/or patients, how have the compensation arrangements been structured? In the case of community-based organizations, do MA plans and providers tend to contract with individual organizations or networks of multiple organizations? Please provide examples of how MA plans and providers have leveraged particular MA supplemental benefits for or within such arrangements as well as any outcomes from these partnerships.

7. What food- or nutrition-related supplemental benefits do MA plans provide today? How and at what rate do enrollees use these benefits, for example, for food insecurity and managing chronic conditions? How do these benefits improve enrollees' health? How are MA Special Needs Plans (SNPs) targeting enrollees who are in most need of these benefits? What food- or nutrition-related policy changes within the scope of applicable law could lead to improved health for MA enrollees? Please include information on clinical benefits, like nutrition counseling and medically-tailored meals, and benefits informed by social needs, such as produce prescriptions and subsidized/free food boxes.

8. What physical activity-related supplemental benefits do MA plans provide today? At what rate do enrollees use these benefits? How do these benefits improve enrollees' health? What physical activity-related policy changes within the scope of applicable law could lead to improved health for MA enrollees?

9. How are MA SNPs, including Dual Eligible SNPs (D–SNPs), Chronic Condition SNPs (C–SNPSs), and Institutional SNPs (I–SNPs), tailoring care for enrollees? How can CMS support strengthened efforts by SNPs to provide targeted, coordinated care for enrollees?

10. How have MA plans and providers used algorithms to identify enrollees that need additional services or supports, such as care management or care coordination? Please describe prediction targets used by the algorithms to achieve this, such as expected future cost and/or utilization, whether such algorithms have been tested different kinds of differential treatments, impacts, or inequities, including racial bias, and if bias is identified, any steps taken to mitigate unjustified differential outcomes. For MA plans and providers that do test for differential outcomes in their algorithms, please provide information on how such tests function, how their validity is established, whether there is independent evaluation, and what kind of reporting is generated.

11. How are MA plans currently using MA rebate dollars to advance health equity and to address SDOH? What data may be helpful to CMS and MA plans to better understand those benefits?

B. Expand Access: Coverage and Care

CMS is committed to providing affordable quality health care for all people with Medicare. We seek feedback regarding how we can continue to strengthen beneficiary access to health services to support this goal in MA.

1. What tools do beneficiaries generally, and beneficiaries within one or more underserved communities

[1] CMS defines ''underserved communities'' as ''populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.'' CMS derives this definition from that of the same term in Executive Order 13895 (United States, Executive Office of the President [Joseph Biden]. ''Executive Order 13985 of January 20, 2021, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' 86 FR 7009 (January 25, 2021), *https://www.govinfo.gov/content/pkg/FR-2021-01-25/pdf/2021-01753.pdf*.

[2] CMS defines social determinants of health (SDOH) as ''the conditions in the environments where people are born, live learn, work, play, worship, and age that affect a wide range of health, functioning, and quality-of-life outcomes and risks.'' Healthy People 2030, U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, *https://health.gov/healthypeople/priority-areas/social-determinants-health*.

specifically, need to effectively choose between the different options for obtaining Medicare coverage, and among different choices for MA plans? How can CMS ensure access to such tools?

2. What additional information is or could be most helpful to beneficiaries who are choosing whether to enroll in an MA plan or Traditional Medicare and Medigap?

3. How well do MA plans' marketing efforts inform beneficiaries about the details of a given plan? Please provide examples of specific marketing elements or techniques that have either been effective or ineffective at helping beneficiaries navigate their options. How can CMS and MA plans ensure that potential enrollees understand the benefits a plan offers?

4. How are MA plans providing access to behavioral health services, including mental health and substance use disorder services, as compared to physical health services, and what steps should CMS take to ensure enrollees have access to the covered behavioral health services they need?

5. What role does telehealth play in providing access to care in MA? How could CMS advance equitable access to telehealth in MA? What policies within CMS' statutory or administrative authority could address access issues related to limited broadband access? How do MA plans evaluate the quality of a given clinician or entity's telehealth services?

6. What factors do MA plans consider when determining whether to make changes to their networks? How could current network adequacy requirements be updated to further support enrollee access to primary care, behavioral health services, and a wide range of specialty services? Are there access requirements from other federal health insurance options, such as Medicaid or the Affordable Care Act Marketplaces, with which MA could better align?

7. What factors do MA plans consider when determining which supplemental benefits to offer, including offering Special Supplemental Benefits for the Chronically Ill (SSBCIs) and benefits under CMS' MA Value-Based Insurance Design (VBID) Model? How are MA plans partnering with third parties to deliver supplemental benefits?

8. How are enrollees made aware of supplemental benefits for which they qualify? How do enrollees access supplemental benefits, what barriers may exist for full use of those benefits, and how could access be improved?

9. How do MA plans evaluate if supplemental benefits positively impact health outcomes for MA enrollees? What standardized data elements could CMS collect to better understand enrollee utilization of supplemental benefits and their impacts on health outcomes, social determinants of health, health equity, and enrollee cost sharing (in the MA program generally and in the MA VBID Model)?

10. How do MA plans use utilization management techniques, such as prior authorization? What approaches do MA plans use to exempt certain clinicians or items and services from prior authorization requirements? What steps could CMS take to ensure utilization management does not adversely affect enrollees' access to medically necessary care?

11. What data, whether currently collected by CMS or not, may be most meaningful for enrollees, clinicians, and/or MA plans regarding the applications of specific prior authorization and utilization management techniques? How could MA plans align on data for prior authorization and other utilization management techniques to reduce provider burden and increase efficiency?

C. Drive Innovation To Promote Person-Centered Care

We strive to deliver better, more affordable care and improved health outcomes. Key to this mission are care innovations that empower the beneficiary to engage with their health care and other service providers. We seek feedback regarding how to promote innovation in payment and care delivery, and accountable, coordinated care responsive to the specific needs of each person enrolled in MA.

1. What factors inform decisions by MA plans and providers to participate (or not participate) in value-based contracting within the MA program? How do MA plans work with providers to engage in value-based care? What data could be helpful for CMS to collect to better understand value-based contracting within MA? To what extent do MA plans align the features of their value-based arrangements with other MA plans, the Medicare Shared Savings Program, Center for Medicare and Medicaid Innovation (CMMI) models, commercial payers, or Medicaid, and why?

2. What are the experiences of providers and MA plans in value-based contracting in MA? Are there ways that CMS may better align policy between MA and value-based care programs in Traditional Medicare (for example, Medicare Shared Savings Program Accountable Care Organizations) to expand value-based arrangements?

3. What steps within CMS's statutory or administrative authority could CMS take to support more value-based contracting in the MA market? How should CMS support more MA accountable care arrangements in rural areas?

4. How are providers and MA plans incorporating and measuring outcomes for the provision of behavioral health services in value-based care arrangements?

5. What is the experience for providers who wish to simultaneously contract with MA plans or participate in an MA network and participate in an Accountable Care Organization (ACO)? How could MA plans and ACOs align their quality measures, data exchange requirements, attribution methods and other features to reduce provider burden and promote delivery of high-quality, equitable care?

6. Do certain value-based arrangements serve as a ''starting point'' for MA plans to negotiate new value-based contracts with providers? If so, what are the features of these arrangements (that is, the quality measures used, data exchange and use, allocation of risk, payment structure, and risk adjustment methodology) and why do MA plans choose these features? How is success measured in terms of quality of care, equity, or reduced cost?

7. What are the key technical and other decisions MA plans and providers face with respect to data exchange arrangements to inform population health management and care coordination efforts? How could CMS better support efforts of MA plans and providers to appropriately and effectively collect, transmit, and use appropriate data? What approaches could CMS pursue to advance the interoperability of health information across MA plans and other stakeholders? What opportunities are there for the recently released Trusted Exchange Framework and Common Agreement [3] to support improved health information exchange for use cases relevant to MA plans and providers?

8. How do beneficiaries use the MA Star Ratings? Do the MA Star Ratings quality measures accurately reflect quality of care that enrollees receive? If not, how could CMS improve the MA Star Ratings measure set to accurately reflect care and outcomes?

9. What payment or service delivery models could CMMI test to further

[3] For more information, *see* U.S. Department of Health and Human Services, Office of the National Coordinator, ''Trusted Exchange Framework and Common Agreement (TEFCA),'' *https://www.healthit.gov/topic/interoperability/trusted-exchange-framework-and-common-agreement-tefca.*

support MA benefit design and care delivery innovations to achieve higher quality, equitable, and more person-centered care? Are there specific innovations CMMI should consider testing to address the medical and non-medical needs of enrollees with serious illness through the full spectrum of the care continuum?

10. Are there additional eligibility criteria or benefit design flexibilities that CMS could test through the MA VBID Model that would test how to address social determinants of health and advance health equity?

11. What additional innovations could be included to further support care delivery and quality of care in the Hospice Benefit Component of the MA VBID Model? What are the advantages and disadvantages of receiving the hospice capitation payment as a standalone payment rather than as part of the bid for covering Parts A and B benefits?

12. What issues specific to Employer Group Waiver Plans (EGWPs) should CMS consider?

D. Support Affordability and Sustainability

We are committed to ensuring that Medicare beneficiaries have access to affordable, high value options. We request feedback on how we can improve the MA market and support effective competition.

1. What policies could CMS explore to ensure MA payment optimally promotes high quality care for enrollees?

2. What methodologies should CMS consider to ensure risk adjustment is accurate and sustainable? What role could risk adjustment play in driving health equity and addressing SDOH?

3. As MA enrollment approaches half of the Medicare beneficiary population, how does that impact MA and Medicare writ large and where should CMS direct its focus?

4. Are there additional considerations specific to payments to MA plans in Puerto Rico or other localities that CMS should consider?

5. What are notable barriers to entry or other obstacles to competition within the MA market generally, in specific regions, or in relation to specific MA program policies? What policies might advantage or disadvantage MA plans of a certain plan type, size, or geography? To what extent does plan consolidation in the MA market affect competition and MA plan choices for beneficiaries? How does it affect care provided to enrollees? What data could CMS analyze or newly collect to better understand vertical integration in health care systems and the effects of such integration in the MA program?

6. Are there potential improvements CMS could consider to the Medical Loss Ratio (MLR) methodology to ensure Medicare dollars are going towards beneficiary care?

7. How could CMS further support MA plans' efforts to sustain and reinforce program integrity in their networks?

8. What new approaches have MA plans employed to combat fraud, waste, and abuse, and how could CMS further assist and augment those efforts?

E. Engage Partners

The goals of Medicare can only be achieved through partnerships and an ongoing dialogue between the program and enrollees and other key stakeholders. We request feedback regarding how we can better engage our valued partners and other stakeholders to continuously improve MA.

1. What information gaps are present within the MA program for beneficiaries, including enrollees, and other stakeholders? What additional data do MA stakeholders need to better understand the MA program and the experience of enrollees and other stakeholders within MA? More generally, what steps could CMS take to increase MA transparency and promote engagement with the MA program?

2. How could CMS promote collaboration amongst MA stakeholders, including MA enrollees, MA plans, providers, advocacy groups, trade and professional associations, community leaders, academics, employers and unions, and researchers?

3. What steps could CMS take to enhance the voice of MA enrollees to inform policy development?

4. What additional steps could CMS take to ensure that the MA program and MA plans are responsive to each of the communities the program serves?

III. Collection of Information Requirements

Please note, this is a request for information (RFI) only. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This RFI does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, we are not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. In addition, this RFI does not commit the Government to any policy decision and CMS will follow established methods for proposing future policy changes, including the MA Advance Notice and Rate Announcement process. We note that not responding to this RFI does not preclude participation in any future procurement or rulemaking, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. In addition, we note that CMS will not respond to questions about the policy issues raised in this RFI.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on July 26, 2022.

Dated: July 27, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–16463 Filed 7–28–22; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 220722–0162]

RIN 0648–BI88

Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS is proposing changes to the North Atlantic right whale (*Eubalaena glacialis*) vessel speed regulations to further reduce the likelihood of mortalities and serious injuries to endangered right whales from vessel collisions, which are a leading cause of the species' decline and a primary factor in an ongoing Unusual Mortality Event. The proposed rule would: (1) modify the spatial and temporal boundaries of current speed restriction areas referred to as Seasonal Management Areas (SMAs), (2) include most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length in the size class subject to speed restriction, (3) create a Dynamic Speed Zone framework to implement mandatory speed restrictions when whales are known to be present outside active SMAs, and (4) update the speed rule's safety deviation provision. Changes to the speed regulations are proposed to reduce vessel strike risk based on a coast-wide collision mortality risk assessment and updated information on right whale distribution, vessel traffic patterns, and vessel strike mortality and serious injury events. Changes to the existing vessel speed regulation are essential to stabilize the ongoing right whale population decline and prevent the species' extinction.

DATES: Submit comments on or before September 30, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0022, by electronic submission. Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0022 in the Search box. Click the ''Comment'' icon, complete the required fields and enter or attach your comments. You may submit comments on supporting materials via the same electronic submission process, identified by NOAA–NMFS–2022–0022.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). The Draft Environmental Assessment, and the Draft Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared in support of this proposed rule, are available via the internet at *https://www.regulations.gov/* or obtained via email from the persons listed below.

FOR FURTHER INFORMATION CONTACT: Caroline Good, *caroline.good@noaa.gov,* 301–427–8402.

SUPPLEMENTARY INFORMATION:

Background

The North Atlantic right whale (*Eubalaena glacialis*) was severely depleted by commercial whaling and, despite protection from commercial harvest since 1935, has not recovered. Following two decades of growth between 1990 and 2010, the species has been in decline over the past decade (Pace *et al.* 2017; Pace 2021), with a recent preliminary population estimate of fewer than 350 individuals remaining. North Atlantic right whale abundance began to decline in 2010 due to a combination of increased human-caused mortality and decreased reproductive output (Pace *et al.* 2017). The decline coincided with changes in whale habitat use patterns, characterized by the whales' increasing use of areas with few protections from anthropogenic harm (Davis *et al.* 2017; Meyer-Gutbrod and Greene 2018; Record *et al.* 2019). The species' decline has been exacerbated by an ongoing Unusual Mortality Event (UME) that NMFS declared in 2017, pursuant to section 404 of the Marine Mammal Protection Act (MMPA), and includes an unprecedented 51 known mortalities and serious injuries to date, impeding the species' recovery. NMFS interprets the regulatory definition of serious injury as any injury that is ''more likely than not'' to result in mortality, or any injury that presents a greater than 50 percent chance of death to a marine mammal (NMFS 2014). Thus, lethal strike events are those that have or are likely to result in a mortality.

Entanglement in fishing gear and vessel strikes are the two primary causes of right whale mortality and serious injury. Human-caused mortality to adult females, in particular, is limiting recovery of the species (Moore *et al.* 2005, 2021; Corkeron *et al.* 2018; Hayes *et al.* 2019; Sharp *et al.* 2019). Anthropogenic trauma was the sole source of mortality for right whale adults and juveniles for which a cause of death could be determined between 2003 and 2018 (Sharp *et al.* 2019). North Atlantic right whale calving rates dropped from 2017 to 2020, with zero births recorded during the 2017–2018 season. The 2020–2021 calving season had the first substantial calving increase in five years, with 20 calves born, followed by 15 calves during the 2021–2022 calving season. However, mortalities continue to outpace births, and best estimates indicate fewer than 100 reproductively active females remain in the population.

NMFS has determined that the Potential Biological Removal (PBR) for the species—defined by the MMPA as ''the maximum number of individuals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population''—is 0.7 whales (NMFS 2021). This means that for the species to recover, the population cannot sustain, on average over the course of a year, the death or serious injury of a single individual due to human causes. Observed human caused mortality far exceeds this level and a recent assessment of total right whale mortality estimates range-wide indicates that observed deaths likely captured only about 36 percent of the actual total deaths between 1990 and 2017 (Pace *et al.* 2021). Right whale abundance will continue to decline, imperiling species recovery, unless human caused mortality is substantially reduced in the near term.

North Atlantic right whales inhabit U.S. waters year-round but predominate during late fall through early summer. Within U.S. waters, the whales primarily forage in the greater Gulf of Maine region (Pershing *et al.* 2009; Davies *et al.* 2014). The species' only known winter calving area lies within the South Atlantic Bight between northern Florida and North Carolina (Keller *et al.* 2012; Gowan and Ortega-Ortiz 2014). The Mid-Atlantic region serves both as a migratory habitat for whales moving between calving areas and northern foraging grounds, as well as a foraging habitat. Right whales can be highly mobile, traveling upwards of 40 nautical miles per day, or, when engaged in certain behaviors (*e.g.,* foraging), relatively stationary, remaining within several miles for days (Baumgartner and Mate 2005; Crowe et *al.* 2021). The whales' primary distribution includes seasonal coastal habitats characterized by extensive commercial and recreational vessel traffic.

North Atlantic right whales are vulnerable to vessel strike due to their coastal distribution and frequent occurrence at near-surface depths, and this is particularly true for females with calves. The proportion of known vessel strike events involving females, calves,

and juveniles is higher than their representation in the population (NMFS 2020). Mother/calf pairs are at high risk of vessel strike because they frequently rest and nurse in nearshore habitats at or near the water surface, particularly in the Southeast calving area (Cusano *et al.* 2018; Dombroski *et al.* 2021). Calving females have the longest residence time of any demographic group on the Southeast calving ground, staying on average about three months in the region before traveling with their nursing calves to northern foraging areas (Krzystan *et al.* 2018). Right whales nurse their calves for up to a year. This promotes rapid calf growth (Fortune *et al.* 2012) but also places mother/calf pairs at increased risk of vessel interactions, not only within the Southeast calving ground but also along the Mid-Atlantic and New England coasts, which are important migratory and foraging areas for right whales.

Numerous studies have indicated that slowing the speed of vessels reduces the risk of lethal vessel collisions, particularly in areas where right whales are abundant and vessel traffic is common and otherwise traveling at high speeds (Vanderlaan and Taggart 2007; Conn and Silber 2013; Van der Hoop *et al.* 2014; Martin *et al.* 2015; Crum *et al.* 2019). In 2008, NMFS implemented 10-knot (5.1 meters/second (m/s)) vessel speed restrictions for a five-year period for most vessels greater than or equal to 65 ft (19.8 m) in overall length within designated areas commonly referred to as Seasonal Management Areas (SMAs) along the U.S. East Coast to reduce the risk of mortality and serious injury from vessel strike (73 FR 60173, October 10, 2008 (50 CFR 224.105)). NMFS later removed the five-year ''sunset'' provision from the speed rule (78 FR 73726, December 9, 2013; 79 FR 34245, June 16, 2014), and the rule continues in effect today.

Reducing vessel speed is one of the most effective, feasible options available to reduce the likelihood of lethal outcomes from vessel collisions with right whales. Previous investigations indicate that NMFS' speed regulations at 50 CFR 224.105 for most vessels greater than or equal to 65 ft (19.8 m) in length reduced the risk of lethal vessel strikes to right whales (Conn and Silber 2013; Laist *et al.* 2014). In 2021, NMFS released the North Atlantic Right Whale Vessel Speed Rule Assessment (hereafter ''speed rule assessment'') documenting a reduction in observed right whale serious injuries and mortalities resulting from vessel strikes since implementation of the speed rule in 2008 (50 CFR 224.105), but highlighting the need for additional action to more effectively address the risk of vessel strikes to right whales (NMFS 2020).

NMFS is addressing risk from fishing gear entanglement through separate regulatory actions from this proposed rule as informed by the Atlantic Large Whale Take Reduction Team (ALWTRT) and continues to work on additional measures to further reduce lethal entanglements. The MMPA directs NMFS to reduce incidental entanglements in commercial fisheries that cause mortalities and serious injuries of marine mammal stocks above a biological reference point (*i.e.* PBR) through a consensus-based Take Reduction Process. The ALWTRT is a large stakeholder group NMFS has convened numerous times since 1996 to develop recommendations to reduce mortality and serious injury of right whales and other large whales covered under the Atlantic Large Whale Take Reduction Plan. The ALWTRT continues to meet regularly to develop recommendations to further modify the Plan and reduce right whale entanglements in commercial fisheries.

Summary of Current North Atlantic Right Whale Vessel Strike Reduction Measures

NMFS has implemented a combination of regulatory requirements and voluntary programs aimed at modifying mariner behavior and/or increasing mariner awareness of right whale presence to reduce vessel collision risk. Together, these efforts address two aspects of reducing strike risk: (1) reducing the spatial overlap of right whales and vessels, and (2) reducing the speed of vessels in areas and at times when right whales are likely to be present. Below is a summary of vessel strike reduction actions implemented by NMFS and other Federal partners to date.

Statutory Protections

(1) ''Take'' Prohibitions. Both the Endangered Species Act (ESA) and the MMPA generally prohibit the unauthorized ''take'' of North Atlantic right whales. Under the ESA, ''take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' (16 U.S.C. 1532(19)). Under the MMPA, ''take means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill.'' (16 U.S.C. 1362(13)).

(2) ESA Section 7 Consultations. As required by Section 7(a)(2) of the ESA, as amended (ESA; 16 U.S.C. 1531 *et seq.*), all U.S. Federal agencies must consult with NMFS to ensure that any actions they authorize, fund, or carry out that may affect ESA-listed species under NMFS jurisdiction are not likely to jeopardize the continued existence of those species or adversely modify or destroy their designated critical habitat. When Federal agencies authorize vessel activities potentially co-occurring with right whales and engage in consultations with NMFS, they often implement measures governing vessel speed designed to reduce the risk of right whale interactions.

Regulatory Measures

(1) North Atlantic Right Whale Vessel Speed Rule. In 2008, NMFS implemented a rule requiring most vessels equal to or greater than 65 ft (19.8 m) in length to transit at speeds of 10 knots (5.1 m/s) or less in designated SMAs (73 FR 60173, October 10, 2008) pursuant to its authority under the MMPA and ESA. Some vessels are exempt from this requirement including military vessels, vessels owned, operated or contracted by the Federal government, and vessels engaged in enforcement or search and rescue activities (50 CFR 224.105(a)). Although these vessels are exempt from the speed rule, they are not exempt from consultation under section 7 of the ESA. During consultations, mitigation measures, including reduced speeds, may be recommended or specified to reduce the threat of vessels collisions with right whales. Regulatory requirements, such as those proposed here that contain a maximum vessel speed but no minimum, are separate from any requirements specified as part of ESA section 7 consultations and are not expected to result in the need to reinitiate existing consultations (50 CFR 402.16). In addition, subject to specific requirements, vessels may deviate from the speed restriction (*i.e.,* exceed the speed limit), under limited circumstances, to maintain safe maneuvering speeds (50 CFR 224.105(c)). Vessels employing this safety deviation must make a notation in the vessel logbook detailing the event. Ten SMAs were designated along the U.S. East Coast with seasonally active periods reflective of temporal trends in right whale habitat use. The locations of the SMAs were informed by vessel traffic (*i.e.,* port entrances were assumed high traffic areas relative to other areas) and right whale distribution data at the time the rule was established. NMFS selected the 10-knot (5.1 m/s) speed limit based on analyses of large whale vessel strike events where the vessel speed at the time of impact was known. Researchers found the probability of whale mortality increased substantially

with vessel speed, with the greatest increase occurring between speed of 10 to 14 knots (5.1 to 7.2 m/s; Vanderlaan and Taggert 2007). Based on these findings, NMFS determined that the use of speed restrictions was an effective means to reduce the likelihood and severity of vessel collisions.

(2) 500 Yard (457.2 m) Minimum Approach Distance. In 1997, NMFS implemented a minimum approach distance for vessels in the vicinity of North Atlantic right whales in an effort to reduce harassment and risk of injury (62 FR 6729, February 13, 1997). It is illegal for a vessel to approach within 500 yards (457.2 m) of a right whale, and if a vessel finds itself within 500 yards (457.2 m) it ''must steer a course away from the right whale and immediately leave the area at a slow safe speed'' (50 CFR 224.103(c)(1–2)). Exceptions are made if ''compliance would create an imminent or serious threat to a . . . vessel'' (50 CFR 224.103(c)(3)).

Non-Regulatory Measures

(1) Great South Channel Area To Be Avoided (ATBA). An ATBA is an International Maritime Organization (IMO)-established vessel routing measure within a specified area to avoid navigational hazards or environmentally sensitive areas. In June 2009, an ATBA was established in the Great South Channel to the east of Cape Cod, MA after gaining approval from the IMO. All vessels greater than or equal to 300 gross tons are recommended to avoid this area between April 1 and July 31.

(2) Recommended Routes. In 2006, a joint U.S. Coast Guard/NOAA effort established recommended routes for vessels transiting across Cape Cod Bay and into/out of ports in Florida and Georgia. The routes are recommended between January and May in Cape Cod Bay and between November and April off Florida and Georgia. Mariners are recommended to follow the routes to minimize their transit distance through important right whale habitat areas.

(3) Modification to the Boston Traffic Separation Scheme (TSS). In 2007, following a successful application to the IMO led by the Stellwagen Bank National Marine Sanctuary and NMFS, a modified TSS (commonly referred to as a shipping lane) was implemented to the north of Cape Cod, MA for vessel traffic navigating to and from the Port of Boston. The modification narrowed the TSS and shifted its route to the north around Cape Cod to reduce the overlap with large whale foraging grounds.

(4) Dynamic Management Areas (DMAs) and Right Whale Slow Zones. NMFS implemented a voluntary DMA program concurrently with the mandatory speed rule in 2008. A DMA is triggered when a group of three or more right whales are sighted in close proximity. Beginning in 2020, the NMFS Greater Atlantic Region modified the DMA program to include acoustically triggered Slow Zones. Once the trigger is met, NMFS establishes a boundary around the whales for 15 days and encourages vessels either to avoid the area or transit through at speeds less than 10 knots (5.1 m/s). DMAs/Slow Zones may be extended if whales remain in the area. The agency alerts mariners to DMA and Slow Zone declarations through website postings, emails to lists of interested parties, U.S. Coast Guard Local Notices to Mariners, and U.S. Coast Guard Broadcast Notices to Mariners.

Need for Additional Action

In January 2021, NMFS released an assessment evaluating the effectiveness of the North Atlantic right whale speed rule and associated voluntary DMA program (NMFS 2020) and invited the public to submit comments. The review found that the speed rule had made progress in reducing vessel strike risk to right whales but that additional action is warranted to further reduce the threat of vessel collisions. While it is not possible to establish a direct causal link between speed reduction efforts and the relative decline in observed right whale mortality and serious injury events following implementation of the speed rule, the preponderance of evidence suggests speed reductions, as implemented, have helped. NMFS' data on documented vessel strike events continues to affirm the role of high vessel speeds (≤ 10 knots (5.1 m/s)) in lethal collision events and supports existing studies implicating speed as a factor in lethal strikes events. NMFS has documented five right whale vessel strike cases in U.S. waters that resulted in *non-serious* injuries for which vessel speed is known. Only one of the five vessels involved was transiting in excess of 10 knots (5.1 m/s) at the time of the collision. In contrast, of the nine documented lethal right whale vessel collisions in U.S. waters since 1990 for which vessel speed is known, eight involved vessels transiting in excess of 10 knots (5.1 m/s).

Since the speed rule first went into effect, NMFS has documented 12 right whale mortality and serious injury events involving vessel collisions in U.S. waters, along with an additional five mortality and serious injury events involving unknown whale species, possibly right whales. These figures likely underestimate the total number of lethal right whale vessel strikes in U.S. waters. Strikes occurring farther offshore and/or involving large ocean-going vessels are likely underreported in the data because most large ships are not able to detect interactions with large whales, and whales that die well offshore are less likely to be detected overall. Based on estimates of total right whale deaths, documented mortalities from all sources represent approximately one-third of actual annual right whale mortality range-wide (Pace *et al.* 2021). Thus, in addition to the observed events, NMFS recognizes that additional lethal vessel strike events likely went undetected in U.S. waters.

A detailed examination of documented right whale vessel strike events in the U.S. further reveals the following:

(1) Vessels less than 65 ft (19.8 m) in length accounted for five of the 12 documented lethal strike events in U.S. waters since 2008, demonstrating the significant risk this unregulated vessel size class can present to right whales.

(2) Vessel strikes continue to occur all along the U.S. coast from the Gulf of Maine to the Florida coast. There is no indication that strike events only occur in ''hot spots'' or limited spatial/seasonal areas.

(3) Strikes occur both inside and outside active SMAs, but in many cases, the location of the strike event remains unknown. Four of the five collision events involving vessels less than 65 ft (19.8 m) in length occurred inside active SMAs, although the vessels involved were not subject to mandatory speed restrictions due to their size.

(4) Of the six lethal vessel strike cases documented in U.S. waters and involving right whales since 1999 where vessel speed is known, only one involved a vessel transiting at under 10 knots (5.1 m/s) (~9 knots (4.6 m/s)), although in most cases, we lack vessel speed data associated with collision events.

(5) Females, calves, and juveniles are disproportionately represented in the vessel strike data. This is concerning given the paucity of reproductively active females remaining in the population and their critical role in stabilizing the population decline.

(6) Non-lethal vessel collisions with right whales continue to occur. NMFS' best estimates indicate that vessel strikes (in U.S. waters or first seen in U.S. waters) have resulted in at least 26 non-serious right whale injuries since 2008, although these data do not account for the possibility of blunt force trauma injuries, which are not usually visibly detectable and make accurate

assessments of strike injuries challenging.

Despite NMFS' best efforts, the current speed rule and other vessel strike mitigation efforts are insufficient to reduce the level of lethal right whale vessel strikes to sustainable levels in U.S. waters. NMFS has determined that additional action is needed to address gaps in current management programs and better tailor mitigation efforts. In evaluating potential changes to the current speed rule NMFS considered up-to-date strike risk modeling, data on right whale strike events, species distribution, and vessel traffic characteristics in right whale habitat, and the extensive and informative comments received in response to the 2020 speed rule assessment.

Summary of Proposed Changes

NMFS proposes changes to the existing North Atlantic right whale vessel speed regulations. The proposed measures detailed below seek to reduce the risk of mortality and serious injury from vessel strike events in U.S. waters and include the following:

(1) Changes to the spatial boundaries and timing of mandatory SMAs to better address areas and times where vessel strike risk is high;

(2) Inclusion of most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length in the vessel size class subject to the speed restriction;

(3) Implementation of a Dynamic Speed Zone (DSZ) framework to implement mandatory speed restrictions when whales are known to be present outside active SMAs; and

(4) Updates to the speed rule's safety deviation provision.

Modification of Seasonal Speed Zones (Currently Referred to as Seasonal Management Areas)

Since implementation of the speed rule in 2008, the distribution of right whales has shifted, resulting in a misalignment between areas of high vessel strike risk and current SMA spatial and temporal bounds. Improved data on vessel traffic and right whale distribution/habitat use further highlight this discrepancy and the need to adjust SMA boundaries to better address the risk of collisions. For example, after 2010, right whales began to frequent the region south of Martha's Vineyard and Nantucket, MA, and are now regularly observed in large aggregations foraging in the area (Leiter *et al.* 2017). Prior to this period, that region, while part of right whale habitat, was not identified as an important foraging area. In 2021 alone, 67 voluntary DMAs and Slow Zones were declared (28 of which were off Martha's Vineyard and Nantucket), demonstrating the ongoing spatial and temporal mismatch between whale aggregations and vessel strike protections.

The goal for vessel speed regulation remains unchanged—to reduce the likelihood of right whale serious injuries and mortalities from vessel collisions. To maximize the reduction of vessel strike risk, NMFS developed proposed modifications to the SMAs using a coast-wide vessel strike mortality risk model, North Atlantic right whale visual sighting (NARWC 2021) and acoustic detection (NEFSC 2022) data, recent vessel traffic Automatic Identification System (AIS) data, and information on other relevant planned ocean activities, including offshore wind development.

Additional factors were considered when developing proposed SMA spatial boundaries and timing to optimize effective right whale protection, including minimizing impacts on the regulated community:

(1) NMFS sought to provide robust protection for right whales over a 10 to 15 year time horizon, and design built-in adaptivity to climate change and other factors to ensure that the speed rule remains resilient to shifts in right whale distribution and habitat use over time. This timeframe also provides a stable and predictable long-term regulatory structure for the maritime community.

(2) NMFS aimed to identify the smallest spatial and temporal footprint possible for speed restricted areas to minimize the extent of regulatory action while achieving necessary conservation goals. This assumes a framework will be in place to implement mandatory speed restrictions dynamically to address right whales outside the proposed SMAs (see Mandatory Dynamic Speed Zones).

(3) Changes to speed regulation areas/boundaries focused on reducing vessel traffic operating at speeds in excess of 10 knots (5.1 m/s), since high transit speed is implicated in strike events, and we have the ability to modify this aspect of vessel operation in right whale habitats.

Description of the Vessel Strike Mortality Risk Model

NMFS evaluated the risk of right whales being struck and killed by vessels in U.S. waters along the East Coast using an encounter risk model (Garrison *et al.* 2022). This model simulates the likelihood of a fatal vessel strike based on six sources of information: (1) the spatial distribution and density of right whales; (2) the spatial distribution and amount of vessel traffic; (3) the likelihood that a whale and a particular vessel will be in close proximity; (4) the likelihood that a whale will be near the surface during the interaction; (5) the likelihood that a whale will successfully move to avoid the interaction; and (6) the likelihood of mortality if a collision occurs. A similar approach was previously applied to large whales on the U.S. West Coast (Rockwood *et al.* 2017, 2020) and right whales occurring off the coast of Florida (Crum *et al.* 2019).

NMFS modeled the spatial distribution of right whales using a compilation of aerial survey data collected by the agency and many different external research groups. The model and approaches are similar to those described in Roberts *et al.* (2016) and Gowan and Ortega-Ortiz (2014) and reflect the distribution of right whales since 2010 (Roberts *et al.* 2021). Environmental variables were used to predict the monthly changes in right whale distribution between Florida and the Nova Scotian shelf.

NMFS characterized vessel traffic using data collected via satellite and terrestrial based AIS that transmits information on vessel movements, speed, and characteristics for those vessels that carry AIS units. For each spatial cell in the right whale distribution model, NMFS summarized the length of transit, time of transit, and average speed of each vessel from the available AIS data. These data were summarized monthly for 2017–2019. Generally, most vessels greater than or equal to 65 ft (19.8 m) in length are required to carry AIS transceivers. While many vessels less than 65 ft (19.8 m) in length also carry AIS, they are likely to be under-represented in these data, and therefore, the risk of interactions with right whales is under-represented in the model.

NMFS modeled the likelihood of a whale-vessel encounter using the approach described in Martin *et al.* (2015), where the probability of close encounter between a whale and a vessel within a given spatial cell is a function of vessel size, whale swimming speed, and vessel speed. Given a close encounter, the probability that a whale will be near the surface (in the upper 10 m (32.8 ft) of the water column) where it would be susceptible to a vessel strike was estimated based on available data on dive-surface behavior from animal-borne tags from different regions where whales occur (Baumgartner and Mate 2003; McGregor and Elizabeth 2010; Parks *et al.* 2011; Baumgartner *et al.* 2017; Dombroski *et al.* 2021).

It remains unclear how right whales respond to close approaches by vessels (<1509 ft (460 m)) and the extent to which this allows them to avoid being struck. Rockwood *et al.* (2017) and Crum *et al.* (2019) examined different ways of accounting for avoidance behaviors within encounter risk models. Conn and Silber (2013) indicated that encounter rates were higher with fast-moving vessels than expected, which may be consistent with successful avoidance of slower vessels by whales. NMFS' model included a potential avoidance behavior accounting for random effects of the distance at which a whale reacts, the speed the whale swims to escape, and the direction the whale chooses to swim. This approach accounts for the increased likelihood that a whale will escape a slower moving vessel and includes the large amount of uncertainty in whale behavioral response to approaching vessels.

In this framework, if a collision between a whale and a vessel occurs, the likelihood that the collision will be fatal is a function of vessel speed. NMFS applied the model of Conn and Silber (2013) to evaluate this probability. It should be noted that the data in this model are primarily from larger vessels, so it may be less appropriate for some of the small vessels included in the current analysis.

Application of the Vessel Strike Mortality Risk Model

We used the mortality risk model (Garrison *et al.* 2022) to evaluate areas and times with the highest risk of vessel strike mortalities for right whales. Areas of highest risk are primarily associated with places where there is both a high density of vessel traffic and high density of right whales. In U.S. waters, these areas correspond generally to the Atlantic East Coast region, particularly between late fall and early spring (November through April). The highest risk areas occurred in the Mid-Atlantic between Cape Hatteras, North Carolina, and New York, and in relatively shallow waters over the continental shelf. High-density vessel traffic areas in approaches to major commercial ports pose the greatest risk of vessel strike mortalities. While vessels less than 65 ft (19.8 m) in length are under-represented in the AIS data, the spatial distribution of the risk of interactions with these vessels were also examined. In general, the risk of interactions with vessels less than 65 ft (19.8 m) in length was higher close to shore. NMFS examined the monthly spatial distribution of vessel strike risk to identify regions and times where slowing vessel traffic to speeds less than 10 knots (5.1 m/s) would have the greatest impact on reducing the overall risk of vessel strike mortalities for right whales.

Once these spatio-temporal areas were identified, NMFS compared them with additional opportunistic and survey-based right whale sightings information, including demographics, acoustic detections of right whale presence, and additional information, where available, on possible future activities that might impact vessel traffic, including proposed and leased wind energy sites and U.S. Coast Guard proposed vessel safety fairways (85 FR 37034, June 19, 2020). It is important to note that the risk model is not informed by right whale sightings prior to 2010, opportunistic sightings, or acoustic detections. Additionally, as discussed above, vessel traffic from boats less than 65 ft (19.8 m) in length are under-represented in the model. Comparing these additional data with areas identified by the risk model informed optimal revised SMA boundaries based on the totality of information available.

NMFS then used the risk model to simulate the maximum overall reduction in risk of lethal right whale strikes that could be achieved with the revised SMA boundaries. The revised boundaries were identified based on evaluation of those areas and times with the greatest chance of reducing lethal strikes to right whales. For the simulation, we artificially set the speed of transits within the revised SMA time-space boundary that had an average speed greater than 10 knots (5.1 m/s) to the 10-knot (5.1 m/s) speed that would be required. We then re-calculated the total risk of vessel strike mortality for this simulated dataset and compared to the status quo, thereby providing an estimate of the lethal strike risk reduction, in time and space, should the SMA boundaries be revised to be the expanded SSZs.

Based on this analysis of the proposed SMA boundaries and the additional risk reduction expected to accrue from the use of mandatory DSZs (see Mandatory Dynamic Speed Zones), NMFS anticipates the proposed revisions would address over 90% percent of the risk reduction that can be achieved by reducing vessel speeds to 10 knots (5.1 m/s), relative to the status quo. While the risk model underestimates the strike risk associated with traffic from vessels greater than 35 ft (10.7 m) to less than 65 ft (19.8 m) in length, given the expected coastal distribution of this traffic based on available data, we anticipate this component of strike risk will be sufficiently accounted for by the revised SMA boundaries/timing.

Proposed Boundaries and Effective Periods for Seasonal Speed Zones

NMFS proposes changes to the current boundaries and effective periods of the areas seasonally subject to the 10-knot (5.1 m/s) speed restriction along the U.S. East Coast to better address the ongoing risk of right whale mortality and serious injury from vessel collisions (Figure 1). To more accurately describe them, we will refer to the areas as Seasonal Speed Zones (SSZs) (rather than Seasonal Management Areas or SMAs). The new SSZs include substantial spatial and temporal changes in the Northeast and Mid-Atlantic regions, and more modest changes in the Southeast region. The proposed SSZs with effective dates each year are summarized as follows with geographic coordinates provided in the proposed regulatory text:

(1) Atlantic Zone (November 1–May 30)
(2) Great South Channel Zone (April 1–June 30)
(3) North Carolina Zone (November 1–April 30)
(4) South Carolina Zone (November 1–April 15)
(5) Southeast Zone (November 15–April 15)

NMFS proposes no active SSZs between July and October, and only the Great South Channel Zone would be active during the month of June. This is consistent with data showing fewer right whales present in U.S. waters during this time period. Proposed SSZs were developed with the understanding that DSZs would be used to implement mandatory speed restrictions when appropriate outside of active SSZs. NMFS anticipates that the combination of SSZs and DSZs will provide the spatial and temporal coverage necessary to significantly reduce the risk of lethal strike events attributable to vessel traffic transiting in excess of 10 knots (5.1 m/s).

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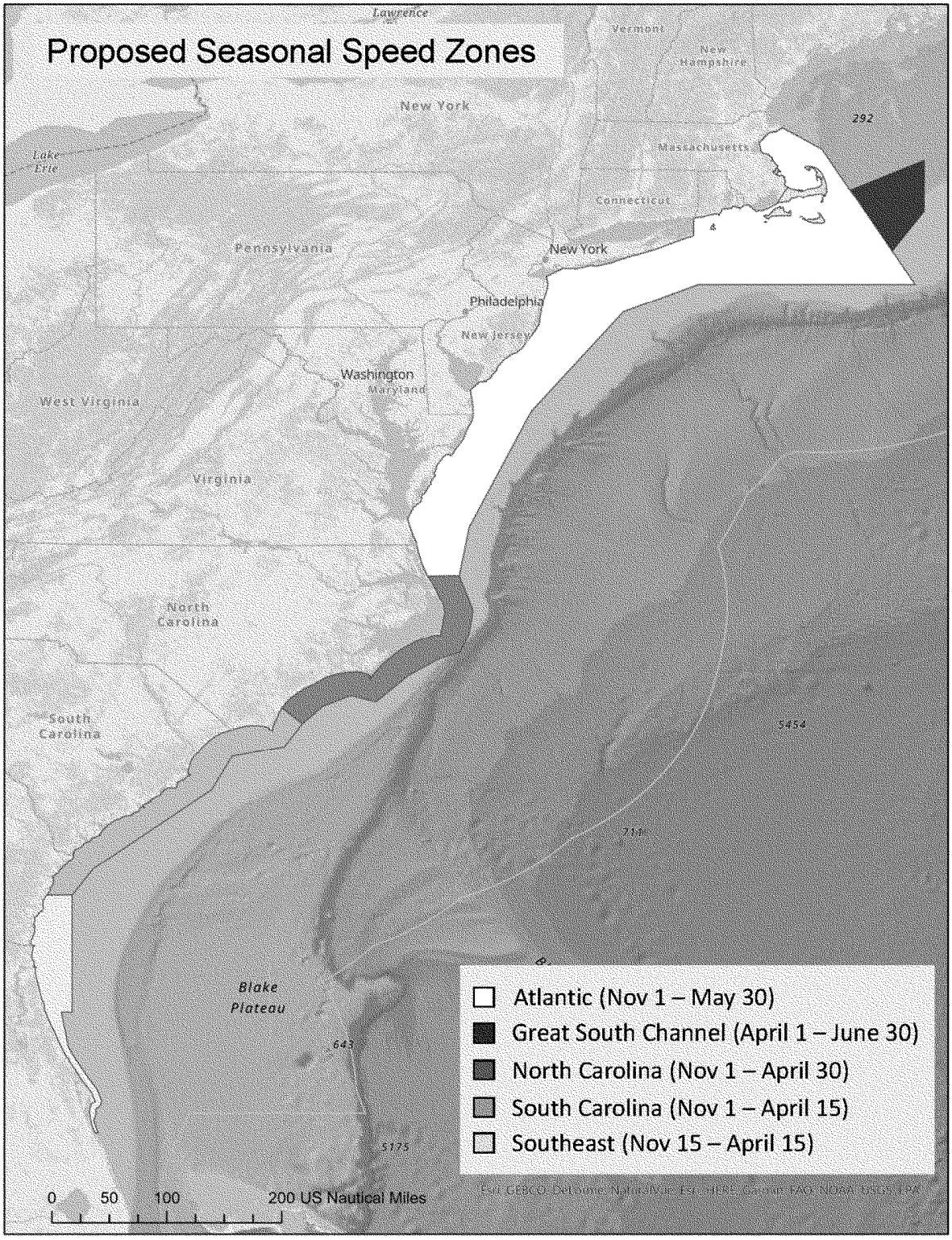

Figure 1: Proposed Seasonal Speed Zones and Effective Dates Each Year

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Regulation of Most Vessels Greater Than or Equal to 35 ft (10.7 m) in Length

The existing North Atlantic right whale vessel speed rule (50 CFR 224.105) does not address the threat of mortalities and serious injuries from strike events involving vessels less than 65 ft (19.8 m) in length. Recent vessel strike events have highlighted the lethality of collisions involving vessel

sizes not subject to the existing speed rule. Since 2020 alone, four right whale vessel strikes in U.S. waters resulted in mortalities and serious injuries: (1) a calf was seriously injured off Florida/Georgia in January 2020; (2) a calf was killed off New Jersey in June 2020; (3) a calf was killed off Florida in February 2021; and (4) its mother was seriously injured by the same vessel. For three of the four events, the vessels involved in the collisions were known to be between 35 (10.7 m) and 65 ft (19.8 m) in length and traveling in excess of 20 knots (10.3 m/s) at the time.

Since 2005, operators of vessels less than 65 ft (19.8 m) in length have reported eight right whale vessel strikes in U.S. waters. Six resulted in right whale serious injuries or mortalities. The reporting vessels ranged in length from 17–54 ft (5.2–16.5 m), with vessels involved in mortality and serious injury events ranging in size from 42–54 ft (12.8–16.5 m) in overall length. The vessel speeds at the time of the strike events ranged from less than 5 knots (2.6 m/s) to approximately 28 knots (14.4 m/s) (Henry *et al.* 2011, 2021; Wiley *et al.* 2016). Of the eight strike events involving vessels less than 65 ft (19.8 m) since 2005, five (including the recent strikes involving a mother/calf pair) occurred within active SMAs where most vessels 65 ft (19.8 m) and over are required to travel at 10 knots (5.1 m/s) or less.

In seven of the eight events involving vessels less than 65 ft (19.8 m) in length, mariners reported no sighting of the whales prior to impact with the vessel. Vessel strikes can occur even when circumstances are seemingly optimal for avoidance as illustrated by two right whale vessel strikes involving research vessels less than 65 ft (19.8 m) in length with trained observers aboard that occurred in Cape Cod Bay during daylight hours (Wiley *et al.* 2016). These events demonstrate that mariner experience and vigilance alone can be insufficient to protect against vessel collisions.

Furthermore, since 2009, operators of vessels less than 65 ft (19.8 m) in length have reported an additional six vessel collisions (including five serious injuries) with undetermined large whale species in U.S. waters that may have involved right whales based on the location and timing of the events (Henry *et al.* 2017). Documented vessel strike deaths of Southern right whales (*Eubalaena australis*) off Australia and South Africa involving a 34-ft (10.4-m) vessel and 44-ft (13.4-m) vessel respectively, further demonstrate the lethal risk vessels less than 65 ft (19.8 m) in length can pose to right whale species more broadly (Peel *et al.* 2016; Vermeulen *et al.* 2021).

Other jurisdictions have instituted speed restrictions for vessels less than 65 ft (19.8 m) in length to mitigate vessel strike risk for North Atlantic right whales. Following a series of right whale vessel strike events, Canada expanded the length of vessels covered by dynamic mandatory 10-knot (5.1 m/s) speed restrictions in the Gulf of St. Lawrence in 2019 to include vessels 13 m (42.7 ft) or greater in length. Also in 2019, the state of Massachusetts introduced regulations restricting the speed of most vessels less than 65 ft (19.8 m) in length to 10 knots (5.1 m/s) or less when transiting through waters within, and to the north of, Cape Cod Bay during the months of March and April each year to provide protection for foraging right whales following vessel strike events in the Bay (322 CMR 12.05). Massachusetts has received no reports of strikes involving vessels less than 65 ft (19.8 m) in length, nor reports of safety concerns from mariners in this area since implementation of the regulation. The State has extended these vessel speed restrictions into the month of May during years when right whales remained in the Bay.

Collisions with vessels less than 65 ft (19.8 m) in length pose a danger to both the whale and vessel occupants. There are numerous cases from around the world of vessels sustaining significant damage, and even sinking, following collisions with whales (Ritter 2012; Peel *et al.* 2018). For example, two vessel-whale collisions that occurred in March 2009 and February 2021 resulted in vessel damage significant enough to require passenger rescue by the U.S. Coast Guard. Sailing vessels can be at particular risk of substantial damage due to their deliberately light construction (Ritter 2012) even though most transit at speeds at or under 10 knots (5.1 m/s). Moreover, collisions with vessels less than 65 ft (19.8 m) in length with whales have resulted in injuries to vessel occupants (NMFS unpublished data).

For the reasons detailed above, NMFS proposes to expand the size class of vessels currently subject to speed restrictions to include most vessels greater than or equal to 35 ft (10.7 m) to less than 65 ft (19.8 m) in overall length. Most vessels within this size class are not subject to U.S. Coast Guard AIS carriage requirements, but based on limited available AIS data and U.S. Coast Guard vessel registration data (USCG 2021), this change may affect up to 8,500–10,000 vessels (albeit to varying degrees). Best estimates indicate that approximately 80 percent of these vessels are larger recreational boats, with commercial fishing (7 percent) and passenger vessels (6 percent) the next most common types. The remaining vessel types include work boats, pilot boats, tug and tow vessels, and other commercial vessels. The total number of affected vessels is likely substantially overestimated, particularly for recreational boats, since available data lack detail about where, when, and how frequently a boat operates within areas subject to speed regulation.

Mandatory Dynamic Speed Zones

Though NMFS' 2006 proposed speed rule included the concept of mandatory DMA speed restrictions that fall outside active SMAs (71 FR 36299, June 26, 2006), the 2008 final speed rule did not. Instead, the agency announced it would implement a voluntary DMA program creating short-term ''dynamic'' areas within which NMFS sought voluntary compliance with restricted speeds based on sightings of right whale aggregations. In 2020, NMFS modified the DMA program to include acoustically triggered Right Whale Slow Zones in the NMFS Greater Atlantic Region (Maine to Virginia), given the increasing availability of near-real time acoustic detectors able to accurately identify right whale presence. If followed, dynamic speed reduction areas provide vessel strike risk reduction to aggregations of right whales or areas with persistent right whale presence outside active SMAs in near-real time. The program was intended to provide protection for right whales in areas/times not covered by SMAs. As discussed above, shifts in right whale distribution and habitat use since the current SMAs were established in 2008 have resulted in a substantial number of DMA and Slow Zone declarations.

NMFS 2008 speed rule stated the agency would ''monitor voluntary compliance'' and if cooperation was not satisfactory would ''consider making them mandatory, through a subsequent rulemaking'' (73 FR 60173, October 10, 2008). Despite NMFS' best efforts to reach out to vessel operators about dynamic speed reduction areas and educate the maritime community about the need for right whale vessel strike mitigation, NMFS' speed rule assessment determined that vessel cooperation levels are low, and therefore, the reduction in risk provided by the voluntary DMAs is minimal (NMFS 2020).

As discussed above, the proposed SSZs boundaries/timing are designed to address most vessel strike risk attributable to vessels transiting in excess of 10 knots (5.1 m/s). Based on

an evaluation of recent voluntary DMAs and acoustically triggered Slow Zones, 54 of the 67 DMAs/Slow Zones triggered during 2021 (80.6 percent) would fall within the proposed SSZs. In other words, only 13 (19.4 percent) of 2021 DMAs/Slow Zones would have been triggered if the proposed SSZ boundaries were in effect. This indicates that the existing misalignment between the current SMA boundaries and elevated risk areas is substantially, but not wholly, captured by the proposed SSZs. Thus, even after adjusting the geographic boundaries and timing of the static SSZs to more accurately reflect the best available data on right whales and vessel strike risk, there is still a role for dynamic speed restrictions to protect other areas where right whales occur less predictably.

In examining the totality of information available to inform changes to the location and timing of SSZ boundaries, it became clear that for some areas and seasons, static speed management may not be sufficient as a sole strategy to reduce vessel strike risk. This is primarily the case in areas where right whale presence is less predictable or more ephemeral and/or where elevated strike risk is more moderate.

Static speed restrictions best serve areas with reliable right whale presence and elevated strike risk. For example, right whales reliably occur within the South Atlantic Bight calving ground each and every season (November through April). The total number of individuals present will vary from year to year (Krzystan *et al.* 2018), but this calving, and likely mating, habitat is an essential area for right whale reproduction and is designated (81 FR 4837, January 27, 2016) as critical habitat under the ESA. The consistency of right whale presence (especially vulnerable mothers/calf pairs) combined with high levels of vessel traffic along the Southeast coast are the primary reasons vessel strike risk in this region is best managed via a static SSZ.

In other times/areas, however, right whale presence may be less predictable and/or elevated vessel strike risk more moderate. For example, during late fall and winter, right whales have been documented over many years in the central Gulf of Maine, frequently engaged in foraging. Right whales have been visually or acoustically detected in this area during most, but not every fall/winter season, and vessel strike risk is lower in this area, relative to other parts of the U.S. East Coast, due to lower levels of vessel traffic transiting at high speeds. Vessel strike risk modeling indicates a benefit to right whales from vessel speed restriction in this area but to a lesser degree than other places/times. With adequate seasonal monitoring for right whale presence, a dynamic area speed restriction is ideally positioned to provide vessel strike protection in this area when and where it will be most beneficial to right whale conservation.

To address elevated vessel strike risk in areas outside SSZs, NMFS is proposing to implement a mandatory DSZ framework to replace the current voluntary DMA/Slow Zone program. Under this proposed framework protocol, as described below, a mandatory DSZ would be created for an area outside an active SSZ, within U.S. waters from Maine to Florida, based on (1) a confirmed visual sighting of a right whale aggregation (three or more whales in close proximity) or a confirmed right whale acoustic detection (since it is not possible to quantify the number of individual whales present) and (2) NMFS determination that the area to be designated as a DSZ has a greater than 50 percent likelihood of right whale presence during a minimum effective period of 10 days (periods shorter than this may present practical challenges for implementation).

Existing protocols for the current voluntary DMA/Slow Zone program are proposed as a minimum trigger threshold to inform a new DSZ. Under these protocols, NMFS establishes voluntary 15-day DMAs when three or more right whales are sighted within close proximity. Depending on the size and geographic spread of the right whale aggregation, the spatial extent of the DMA is determined based on a local density method as outlined in Clapham and Pace (2001), with most zones approximately 400 square nautical miles (sq nm; 1,372 sq kilometers (sq km)). NMFS declares voluntary Slow Zones in the NMFS Greater Atlantic Region when a right whale acoustic detection is confirmed. Acoustically triggered Slow Zones extend approximately 20 nm from the detection source and remain effective for 15 days. DMAs/Slow Zones may be extended if additional sightings or acoustic detections meeting the thresholds above are detected within the latter half of the 15 day effective period. Once the initial detection trigger has been met, NMFS would then determine whether the potential DSZ has a greater than 50 percent likelihood that right whales would continue to be present within the zone (not to exceed 2,500 sq nm (8,575 sq km) commensurate with the size of the aggregation for visual detections or 400 sq nm (1,372 sq km) for acoustic detections). As with the current voluntary DMA/Slow Zone program, DSZs may be extended if additional sightings or acoustic detections meeting the minimum thresholds occur within the effective period.

Drawing upon the agency's long-time expertise implementing voluntary dynamic areas over the last 13 years, NMFS' process for determining and implementing DSZs would follow an objective, rigorous and replicable protocol, informed by inputs such as the number of right whales detected, the dispersion of the aggregation, and whale behavior (if known). Furthermore, NMFS would provide details of the DSZ determination when providing public notice of a DSZ designation. Ensuring that DSZs meet a minimum trigger threshold and a greater than 50 percent likelihood of continued right whale presence standard would provide confidence that these zones will effectively achieve the goal of providing targeted protection to right whales (in areas not protected by static zones) from elevated vessel strike risk while avoiding unnecessary regulation of vessel speed.

The boundaries and timing of temporary DSZs for right whales are by their very nature uncertain until the conditions that trigger one are present. Once those conditions are determined to be in place, however, the need for those DSZs to be effective to protect right whales is immediate. Implementing DSZs through publication of **Federal Register** notices does not allow for timely implementation of a DSZ and could result in unnecessary avoidable risk of both vessel strikes of right whales and potentially mariner safety. The time normally required to file and publish a DSZ's boundaries and effective period in the **Federal Register** would delay implementation and diminish the value and effectiveness. Thus, this proposed rule allows NMFS to implement timely DSZs without prior publication in the **Federal Register** as follows.

When NMFS determines that the criteria for establishing a DSZ, or DSZ extension, have been met, NMFS will announce notice of the DSZ or DSZ extension through publication on the agency's website, via U.S. Coast Guard Notices to Mariners, NOAA Weather Radio announcements, and through other practicable appropriate means, as well as by Notice in the **Federal Register** as soon as practicable. NMFS requests public comment on other effective means for notifying the public, including social media, smartphone apps, email notifications and text alerts to which mariners, harbormasters, port officials, pilots, and the public can subscribe. As stated earlier, the proposed SSZs will accrue a net

expansion of vessel strike risk coverage compared to the areas in the current speed regulation, including many areas/times where voluntary DMAs and Slow Zones have been common. NMFS anticipates that under the proposed DSZs framework, the prevalence of these zones will be less frequent, given the more rigorous coverage provided by the proposed SSZ boundaries. Additionally, since 2008, nearly all voluntary DMAs and Slow Zones were triggered on the continental shelf, with 93 percent occurring in the NMFS Greater Atlantic Region (Maine to Virginia). Accordingly, NMFS anticipates that proposed DSZs would continue to be most common north of North Carolina and within coastal and shelf waters.

NMFS requests public comment on the proposed DSZ framework for the proposed mandatory DSZ program. NMFS particularly invites comment on: (1) the geographic areas that should be subject to mandatory DSZs; (2) the appropriate design of trigger thresholds using confirmed right whale acoustic and/or visual detections as well as the appropriate methodology for determining spatial extent as it relates to the greater than 50 percent likelihood standard for presence; and (3) the forms of notice mariners would find most practicable for receiving timely declarations of new DSZs.

The use of dynamic strategies to manage vessel speed for right whale protection is already customary, and employed in U.S. waters. The State of Massachusetts dynamically extends the effective period of its small vessel speed restrictions in Cape Cod Bay if the continued presence of right whales is detected in the Bay, as the State did in 2021 (Massachusetts Division of Marine Fisheries 2021). NMFS' long-time (since 1997) approach regulations also require mariners to modify their vessel operations (including speed and/or direction of travel) in real-time if they encounter right whales while transiting. Mariners must remain 500 yards (457.2 m) away from right whales unless compliance would create a serious threat to vessel safety. This strategy is also used in Canadian waters. Since 2018, Canada has implemented a seasonal system of mandatory dynamic right whale speed restrictions within the Gulf of St Lawrence shipping lanes and during the summer, creates a dynamic Restricted Area to further protect foraging aggregations, as needed, based on right whale detections, and announced through Transport Canada Ship Safety Bulletins (Transport Canada 2021a, 2021b).

Year-round visual and acoustic monitoring of right whale habitat outside proposed active SSZs will be essential to the effectiveness of the proposed mandatory DSZs. NMFS' coast-wide vessel strike mortality risk model indicates where and when elevated strike risk is present, and can serve as a resource for identifying monitoring needs (Garrison *et al.* 2022). In 2019, NMFS convened an expert working group to provide recommendations to enhance right whale monitoring along the U.S. East Coast. The effort culminated in a detailed report that included recommendations for monitoring right whale distribution (Oleson *et al.* 2020). NMFS continues to review recommendations from the monitoring report and is taking monitoring needs for proposed mandatory DSZs into consideration as it works with external partners to optimize right whale monitoring efforts.

Updates to Safety Deviation Provisions

NMFS established a safety deviation provision within the 2008 speed rule (50 CFR 224.105) to accommodate situations where transit at speeds of 10 knots (5.1 m/s) or less during severe conditions would threaten human or navigational safety. Following a review of vessel transit data and compliance information as part of the speed rule assessment (NMFS 2020), NMFS investigated options to better understand the extent of safety impacts from the speed rule and to monitor use of the safety deviation provision. Current regulations lack a mechanism by which the agency can efficiently identify which vessels are employing the safety deviation and when and where use of the safety deviation may be common. Existing information collection protocols lack sufficient detail to determine the circumstances surrounding a deviation and to assess situations where a vessel may lack reasonable grounds to employ the safety deviation. NMFS further recognizes that the current safety deviation language lacks recognition of emergency situations that do not involve a maneuverability issue, when a vessel may have immediate cause to exceed the 10-knot (5.1 m/s) speed restriction due to a medical or other emergency involving the health or life of a vessel passenger.

The proposed inclusion of vessels less than 65 ft (19.8 m) in length within the vessel size class subject to speed regulation presents a new safety issue unique to smaller and lighter boats. During severe weather conditions, vessels less than 65 ft (19.8 m) in length may face maneuverability and associated safety issues. While some vessel operators can easily avoid such conditions, others may need to be out on the water during severe weather events to provide essential maritime services, or as a part of other work obligations.

To address the issues stated above, NMFS proposes to retain the current safety deviation provision with several changes:

(1) Expansion of the safety deviation provision to include emergency situations that present a threat to the health, safety, or life of a person;

(2) Inclusion of a new provision, applicable only to vessels less than 65 ft (19.8 m) in length, which allows such vessels to transit at speeds greater than 10 knots (5.1 m/s) within areas where a National Weather Service Gale Warning, or other National Weather Service Warning (*e.g.,* Storm Warning, Hurricane Warning) for wind speeds exceeding those that trigger a Gale Warning is in effect. No reporting of these speed deviations would be required; and

(3) Modification of the safety deviation reporting protocols to eliminate the vessel logbook entry requirement in favor of a new requirement for vessels to submit an online report to NMFS within 48 hours of employing a safety deviation detailing the circumstances and need for the deviation.

The proposed regulations would require a vessel operator to submit, via a NMFS website, the same information currently contained in the logbook entry along with new information relevant to the deviation event, including:

(1) Vessel name, length overall, draft (at the time of the deviation) and where applicable, the vessel IMO number and Maritime Mobile Service Identity (MMSI) number;

(2) Reason for the deviation: (a) maneuverability constraints, or (b) emergency;

(3) Date, time, latitude, and longitude where deviation began;

(4) Date, time, latitude, and longitude where deviation ended;

(5) Speed or average speed at which the vessel transited during the deviation;

(6) Wind speed and direction at the time of the deviation;

(7) Information on water current speed and direction at the time of the deviation, including measurements from the vessel acoustic doppler current profiler (ADCP), if the vessel is equipment with this device;

(8) If the vessel was operating within a restricted/dredged channel, indicate

whether one-way or two-way vessel traffic was present within the channel at the time the deviation was employed;

(9) The vessel master, and, if the vessel was under pilotage, the pilot, must attest to the accuracy of the information contained within the Report. If the vessel was under pilotage, indicate the name of the harbor pilot;

(10) Opportunity to briefly provide additional narrative (300 word limit), if desired, to explain the circumstances of a safety deviation.

NMFS specifically invites comment on the proposed reporting requirements, including comments on whether a web-based reporting mechanism is practicable for mariners, who should be responsible for completing and attesting to reports (for example, whether pilots should be responsible for completing and attesting to reports when a vessel is under pilotage), and on requiring more robust logbook recordkeeping in lieu of the new reporting requirements proposed herein.

NMFS recognizes that under certain conditions, vessel maneuverability and/or navigational safety may be hampered by transiting at reduced speeds, especially within port entrance areas. NMFS' current and proposed speed regulations acknowledge this through the safety deviation provision that is available when vessel maneuverability is compromised by the speed restriction. Given the totality of changes proposed herein, particularly the expanded size class of vessels subject to regulation, most pilot vessels operating within port entrance areas will likely be newly subject to speed regulation. NMFS solicits comments on options for alternative speed reduction programs specifically within port entrance areas that best maintain navigational safety while providing comparable vessel strike protections to right whales. Alternative programs would be conducted and resourced by external partners, include comprehensive monitoring of right whale presence, and provide a level of vessel strike risk reduction equivalent to that achieved through the measures described in this rule.

Additional Enforcement Clarifications

NMFS is also clarifying that the prohibitions set forth in Section 9(g) of the ESA would apply to the speed restrictions and reporting requirements set forth in this rule. Additionally, consistent with Section 10(g) of the ESA, NMFS clarifies that any person claiming the benefit of an exception to this rule has the burden of proving that the exception applies. Sections 9(g) and 10(g) of the ESA would apply irrespective of these changes. However, NMFS believes it is appropriate to provide additional notice to the public of how these provisions would apply under the proposed rule. This clarification would also provide consistency with other rules designed to protect North Atlantic right whales. With limited exception, regulations at 50 CFR 224.103(c) currently provide that it is unlawful ''to commit, attempt to commit, to solicit another to commit, or cause to be committed'' an approach within 500 yard of a North Atlantic right whale. The approach regulation also makes clear that a person claiming the applicability of an exception has the burden of proving that the exception applies.

Vessel Exemptions

The proposed rule includes one change to the exemptions for certain vessels at 50 CFR 224.105(a). Currently the speed regulations exempt vessels that are owned or operated by, or under contract to, the Federal Government, and that exemption extends to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy. This proposed rule would extend the exemption to foreign sovereign vessels engaging in joint exercises with the U.S. Coast Guard. All other exemptions remain unchanged. As stated earlier, an exemption from the speed regulations does not affect a federal agency's consultation requirement under section 7 of the ESA, and reduced speeds may be recommended or specified as part of a section 7 consultation to reduce the threat of vessels collisions with right whales. Federal action agencies should continue to monitor their actions to determine if reinitiation of a consultation is warranted based on triggers specified at 50 CFR 402.16. This proposed action, however, does not provide a basis for reinitiation.

Stakeholder Considerations

NMFS designed the proposed changes to provide necessary enhanced protection for endangered right whales while minimizing impacts on human use of ocean resources for commerce and recreation. NMFS recognizes that vessels regularly operating at speeds in excess of 10 knots within areas/times designated for speed restriction in this proposed rule will likely experience delayed transit times within these areas, although there will be no restrictions on when or where a vessel may transit.

In addition to considering public comments from stakeholders regarding impacts of the proposed rule, NMFS will continue to work with key federal partners, including the U.S. Coast Guard, Bureau of Ocean Energy Management, U.S. Army Corps of Engineers, and Marine Mammal Commission, to ensure mariner safety and address stakeholder concerns regarding the proposed changes. For example, NMFS is aware of the nascent offshore wind energy industry and the substantial overlap of likely future wind energy development with the proposed Seasonal Speed Zones, possible Dynamic Speed Zones, and right whale habitat generally. The proposed changes would provide a stable regulatory landscape for companies as they plan future vessel-based operations for offshore energy construction and long-term management, while providing necessary protection for right whales throughout the U.S. portions of their habitat.

NMFS anticipates the proposed rule will impact a larger number of recreational boaters and anglers than the current rule, due mostly to the inclusion of vessels equal to or greater than 35 ft in length. Recreational fishing is widely enjoyed and generates billions of dollars in overall economic contribution along the U.S. East Coast (Lovell *et al.* 2020). To better understand the impacts of the proposed rule on recreational angling, NMFS invites public comment on the degree to which the mandatory speed limit (for most vessels equal to or greater than 35 ft in length) may impact recreational angling within the active proposed Seasonal Speed Zones and Dynamic Speed Zones. NMFS anticipates that the seasonal nature of most speed restrictions will minimize the impacts of the proposed rule on recreational activities. In the Southeast and Mid-Atlantic, the proposed restrictions will be in effect during seasons with less recreational angler activity. In the greater New England area, most seasonal speed restrictions occur during periods of colder weather, when recreational activity is low, although this region is most likely to see Dynamic Speed Zones triggered during seasons of higher recreational activity based on right whale distribution data.

Other Considerations

In addition to the proposed vessel speed measures herein, NMFS plans to continue an ongoing review of vessel routing measures to examine the effectiveness of such measures and investigate opportunities to further reduce the spatial and temporal overlap of vessels and right whales through routing measures, if warranted. Effective outreach to the mariner community remains an important means of ensuring speed regulations are understood and

adhered to by the regulated community. NMFS is engaged in ongoing research to identify effective means to communicate with this community.

NMFS also recognizes the role whale avoidance technologies may one day play in preventing vessel collisions, and remains open to the future application of these technologies, if proven safe and effective. The use of onboard marine mammal observers is another strategy employed to reduce vessel strike events. For some activities and vessel types, the addition of marine mammal observers can provide an added mechanism to prevent vessel strikes in conjunction with other conservation measures; however, documented right whale vessel strikes involving vessels with trained observers demonstrate the inconsistency of this tool.

While the proposed rule is designed to address lethal right whale vessel strike risk, NMFS anticipates ancillary benefits, including reduced vessel strike risk, will accrue to other marine species. Endangered and protected cetaceans, pinnipeds, sea turtles, and certain fish species inhabit the regions/seasons covered by the proposed action. Vessel strikes are an ongoing threat to all large whale species and are contributing to two ongoing Unusual Mortality Events involving minke (*Balaenoptera acutorostrata*) and humpback whales (*Megaptera novaeangliae*). Researchers have found that the majority of large whale vessel strike mortalities involve vessels transiting at speeds greater than 10 knots (Laist et *al.* 2001; Jensen and Silber 2004; Vanderlaan and Taggart 2007; Conn and Silber 2013). NMFS expects both the spatial and temporal expansion of SSZs and inclusion of vessels equal to or greater than 35 ft in length will provide additional beneficial vessel strike risk reduction to other large whale species.

Numerous studies have linked reduced vessel transit speeds with a reduction in ocean noise (McKenna *et al.* 2012, 2013; Leaper *et al.* 2014; Gassmann *et al.* 2017; MacGillivray *et al.* 2019; Duarte *et al.* 2021). The proposed rule is expected to reduce radiated underwater ocean noise particularly in areas where substantial numbers of vessels would slow their speeds to 10 knots (5.1 m/s) or less. This change in speed would subsequently reduce noise disturbances, such as sound masking, for marine species occurring in overlapping areas/seasons. Additionally, for certain vessel types, the proposed rule is expected to result in reduced fuel use, and thus emissions, by slowing more vessels over a larger net spatial and temporal area compared to current conditions. NMFS anticipates these reductions would contribute to enhanced air quality, and support lower fossil fuel emissions, a priority for climate change mitigation, benefiting both human health and marine species.

As with the current speed regulation, NMFS recognizes that vessel compliance and effective enforcement is critical to the effectiveness of the proposed rule. Overall vessel compliance with the current speed rule is monitored based on protocols and procedures outlined in the 2020 vessel speed rule assessment (NMFS 2020). NMFS uses the distance weighted average vessel speed to identify sections of transits that exceed 10 knots and considers the total distance at or under 10 knots as the best metric of apparent compliance. NMFS has seen increasing levels of vessel compliance over time since the speed rule first went into effect in 2008.

NOAA has already taken steps to address ongoing enforcement challenges and prepare for new challenges resulting from the inclusion of vessels equal to or greater than 35 ft in length. Specifically, the Office of Law Enforcement has upgraded capabilities for tracking vessel speed at sea, initiated research of new vessel tracking technologies, and started investigating land-based and aerial monitoring options. NMFS has also commenced staff level discussions with the U.S. Coast Guard regarding possible modification of current AIS carriage requirements to include additional vessel types and sizes. Furthermore, as discussed above, NMFS is proposing changes to the speed rule specifically designed to enhance monitoring and enforcement.

The inclusion of vessels equal to or greater than 35 ft in length under the proposed rule will involve some increased enforcement costs since many vessels in this size class are not equipped with AIS and cannot be monitored in the same way as AIS-equipped vessels. Moving forward, NOAA believes a diversified enforcement approach is needed. This would involve expanding at-sea operations in appropriate locations, using additional technologies to monitor vessel speed, providing compliance assistance to the regulated community, including outreach, and bringing enforcement cases in appropriate circumstances.

These enhancements to NOAA's enforcement efforts are not expected to substantially raise costs. NOAA intends to efficiently and effectively enforce the proposed rule building upon ongoing at-sea enforcement efforts, and we anticipate receiving continued assistance from enforcement partners such as the U.S. Coast Guard and State law enforcement agencies. The increase in potentially affected vessels under the proposed rule is not necessarily commensurate with an increase in enforcement costs. While more vessels may be subject to speed regulation under the proposed rule, enforcement will focus on those vessels posing the greatest risk to right whales. Proposed changes to the safety deviation reporting protocols should also streamline enforcement.

NOAA brings civil administrative enforcement cases to achieve both specific and general deterrence. Violations of the current speed rule can result in significant monetary penalties, which serve as a deterrent to other potential violators. Outreach can also be an effective tool to improve compliance. This year, NOAA sent approximately 400 letters to vessels suspected of violating the speed limit to encourage compliance. NOAA is committed to continuing and expanding outreach efforts under the proposed rule.

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Classification

NMFS is proposing this rule pursuant to its rulemaking authority under MMPA section 112(a) (16 U.S.C. 1382(a)), and ESA section 11(f) (16 U.S.C. 1540(f)).

A Draft Environmental Assessment for this proposed action was prepared and is available at *https://www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-vessel-strikes-north-atlantic-right-whales.*

An informal consultation under ESA section 7 is currently underway for this proposed action. Consultation will be completed before a final rule is issued.

This proposed rule has been determined to be significant under E.O. 12866 and NMFS has prepared a draft Regulatory Impact Review (RIR). NMFS estimates that approximately 15,899 vessels would be affected by the proposed revisions to the current speed rule at an estimated cost of just over $46 million per year. Affected vessels include those that are: (1) subject to speed regulation and (2) documented or estimated to transit in excess of 10 knots (5.1 m/s) within the proposed SSZs and potential DSZs. Of the 15,899 vessels identified, 9,220 (59 percent) are recreational/pleasure boats, 3,575 (22 percent) are ocean-going commercial ships, and 3,124 (19 percent) are commercial, industrial and other vessel types, although the number of affected vessels less than 65 ft (19.8 m) is likely overestimated. The largest proportion of the overall estimated cost of the proposed changes is borne by ocean-going commercial ships (35 percent) followed by passenger vessels (26 percent) and industrial work vessels (18 percent). NMFS invites public comment on potential economic, operational or safety impacts from the proposed changes.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. We anticipate a total of 2,524 small entities (individual vessels) would be affected by the proposed rule with an estimated annual cost, as a percentage of revenue, ranging from 0.06% to 2.09%, depending on the vessel type, with passenger and pilot vessels most impacted. Commercial fishing and passenger vessel entities make up a combined 60% of the total small entities affected by the rule, although as a proportion of revenue the cost of this impact is substantially lower for commercial fishing vessels. A full description of the proposed action, and the legal basis and objectives of the action, are discussed above and are not repeated here.

The proposed action includes no day-to-day reporting requirements. A vessel operator only needs to submit a brief electronic report to NMFS if they use the safety deviation provision due to limited maneuverability affecting vessel safety or an emergency. Since these safety/emergency situations are expected to be rare, the impact on small entities should be minimal. No special professional skills are needed to submit the report other than knowledge of the vessel and the conditions relevant to the safety deviation.

NMFS considered a number of alternatives in its Draft RIR and Draft Environmental Assessment but did not identify any significant alternatives which would accomplish the stated objective of this proposed rule. Alternatives considered included:

(1) Alternative 1 (No Action Alternative) would maintain the status quo. No action would be taken and vessel traffic along the U.S. East Coast would continue as is under 50 CFR 224.105.

(2) Alternative 2 would restrict the speed of most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length to 10 knots (5.1 m/s) or less within existing SMAs.

(3) Alternative 3 would modify the spatial and temporal boundaries of the existing SMAs to create newly proposed SSZs. The size class of vessels subject to speed regulation would remain unchanged.

(4) Alternative 4 would restrict the speed of most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length to 10 knots (5.1 m/s) or less within existing SMAs, and establish a mandatory DSZ program.

(5) Alternative 5 (Preferred Alternative) would modify the spatial and temporal boundaries of the existing SMAs to create newly proposed SSZs, add vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length to the vessel size class subject to speed regulation, and establish a mandatory DSZ program.

The changes proposed in this action are designed to significantly reduce the risk of lethal vessel strike events involving right whales in support of broader efforts to stabilize the rapid, unsustainable decline in population. Maintaining the status quo (Alternative 1) would not result in any additional reduction in strike risk. Alternative 2 would address strike risk from most vessels greater than or equal to 35 ft (10.7 m) and less than 65 ft (19.8 m) in length but fails to fix the spatial and temporal misalignment of current SMAs, leaving right whales vulnerable to vessel collision in many areas. Alternative 4 partially addresses this issue by further extending mandatory protections through the DSZ framework, but given the broad spatial/temporal extent of the areas NMFS has identified as high risk outside the current SMAs, the use of a dynamic framework would be inadequate to mitigate the constant strike risk in certain areas/seasons, and would create a cumbersome and less predictable regulatory environment. Alternative 3 successfully addresses much of the spatial and temporal misalignment of current SMAs but fails to address the risk from vessels less than 65 ft (19.8 m) in length, which account for at least 42% of documented lethal strike events in U.S. waters since the speed rule was implemented in 2008. Only Alternative 5, (the action proposed herein) provides a high likelihood (>90%) of substantial reduction in lethal strike events involving most vessels greater than or equal to 35 ft (10.7 m) transiting at speeds greater than 10 knots (5.1 m/s), assuming full compliance with the proposed rule.

The proposed action is not expected to have a disproportionately high effect on minority populations or low-income populations under E.O. 12898.

The proposed action does not contain policies with federalism implications under E.O. 13132.

This proposed action contains a revision to the existing collection-of-information authorization (OMB Control number 0648–0580) for this rule under the Paperwork Reduction Act (PRA). The appropriate PRA documents will be submitted following publication of the proposed rule.

List of Subjects in 50 CFR 224

Administrative practice and procedure, Boats and boating safety, Endangered and threatened species, Marine mammals, Transportation, Vessels, Whales.

Dated: July 25, 2022,

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, the National Oceanic and Atmospheric Administration proposes to amend 50 CFR part 224 as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 2. Revise § 224.105 to read as follows:

§ 224.105 Speed restrictions to protect North Atlantic Right Whales.

(a) The following restrictions apply to: All vessels greater than or equal to 35 ft (10.7 m) in overall length and subject to the jurisdiction of the United States (U.S.), and all other vessels greater than or equal to 35 ft (10.7 m) in overall length entering or departing a port or place subject to the jurisdiction of the U.S. These restrictions shall not apply to U.S. vessels owned or operated by, or under contract to, the Federal Government. This exemption extends to foreign sovereign vessels when they are engaging in joint exercises with the U.S. Department of the Navy or the U.S. Coast Guard. In addition, these restrictions do not apply to law enforcement vessels of a State, or political subdivision thereof, when engaged in law enforcement or search and rescue duties. Vessels subject to the jurisdiction of the U.S. or entering or departing a port or place subject to the jurisdiction of the U.S. shall travel at a speed of 10 knots (5.1 m/s) or less over ground within Seasonal Speed Zones (SSZs) described in paragraphs (a)(1) through (5) of this section and Dynamic Speed Zones (DSZs) established under paragraph (a)(6) of this section:

(1) Atlantic Zone (north of Kill Devil Hills, NC, to north of Gloucester, MA): During the period of November 1 to May 30 each year, includes marine waters beginning at the charted mean high water line within the area bounded by straight lines connecting the following points in the table in the order stated from north to south;

TABLE 1 TO PARAGRAPH (A)(1)

Latitude	Longitude
42°38′23″ N	070°34′21″ W.
42°20′10″ N	069°59′30″ W.
40°21′0″ N	068°38′54″ W.
40°21′0″ N	071°51′21″ W.
39°56′53″ N	072°52′28″ W.
38°30′46″ N	074°12′12″ W.
36°50′21″ N	075°6′15″ W.
36°6′00″ N	075°15′00″ W.
36°6′00″ N	at shoreline.

thence bounded on the west by the shoreline and the Convention on the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines, from 36°6′00″ N north to 40°21′0″ N; thence bounded by the following point 41°04′16″ N, 71°51′21″ W; thence to the shoreline at 71°51′21″ W; thence bounded on the north by the shoreline and the COLREGS Demarcation Lines to 70°39′23″ W, 41°30′54″ N; thence bounded by the shoreline to 70°52′54″ W, 42°18′37″ N; thence bounded by the

following point 70°54′3″W, 42°25′14″N; thence bounded by the shoreline and the COLREGS Demarcation Lines back to the starting point.

(2) Great South Channel Zone (east of Cape Cod, MA): During the period of April 1 to June 30 each year, in all waters bounded by straight lines connecting the following points in Table 2 in the order stated.

TABLE 2 TO PARAGRAPH (A)(2)

Latitude	Longitude
41°44′08″ N	069°34′50″ W.
42°10′00″ N	068°31′00″ W.
41°24′53″ N	068°31′00″ W.
40°50′28″ N	068°58′40″ W.

(3) North Carolina Zone (Wilmington, NC, to north of Kill Devil Hills, NC): During the period of November 1 to April 30 each year, includes marine waters beginning at the charted mean high water line within the area bounded on the west by the shoreline and the COLREGS Demarcation Lines, and on the east by straight lines connecting the following points in Table 3 in the order stated from north to south.

TABLE 3 TO PARAGRAPH (A)(3)

Latitude	Longitude
36°06′00″ N	at shoreline
36°06′00″ N	075°15′00″ W.
35°36′30″ N	075°03′00″ W.
35°15′10″ N	075°06′30″ W.
34°59′10″ N	075°14′40″ W.
34°53′30″ N	075°32′40″ W.
34°39′00″ N	075°59′10″ W.
34°15′50″ N	076°27′30″ W.
34°21′25″ N	076°49′15″ W.
34°11′50″ N	077°13′50″ W.
33°56′40″ N	077°31′30″ W.
34°10′30″ N	at shoreline.

(4) South Carolina Zone (north of Brunswick, GA, to Wilmington, NC): During the period of November 1 to April 15 each year, includes marine waters beginning at the charted mean high water line within the area bounded on the west by the shoreline and the COLREGS Demarcation Lines, and on the east by straight lines connecting the following points in Table 4 in the order stated from north to south.

TABLE 4 TO PARAGRAPH (A)(4)

Latitude	Longitude
34°10′30″ N	at shoreline
33°56′40″ N	077°31′30″ W.
29°45′00″ N	080°51′36″ W.
33°36′30″ N	077°47′06″ W.
33°28′24″ N	078°32′30″ W.
32°59′06″ N	078°50′18″ W.
31°50′00″ N	080°33′12″ W.

TABLE 4 TO PARAGRAPH (A)(4)—Continued

Latitude	Longitude
31°27′00″ N	080°51′36″ W.
31°27′00″ N	at shoreline.

(5) Southeast Zone (south of Cape Canaveral, FL, to north of Brunswick, GA): During the period of November 15 to April 15 each year, includes marine waters beginning at the charted mean high water line within the area bounded on the west by the shoreline and the COLREGS Demarcation Lines, and on the east by straight lines connecting the following points in Table 5 in the order stated from north to south.

TABLE 5 TO PARAGRAPH (A)(5)

Latitude	Longitude
31°27′00″ N	at shoreline.
31°27′00″ N	080°51′36″ W.
29°45′00″ N	080°51′36″ W.
29°45′00″ N	081°01′00″ W.
29°15′00″ N	080°55′00″ W.
29°08′00″ N	080°51′00″ W.
28°50′00″ N	080°39′00″ W.
28°38′00″ N	080°30′00″ W.
28°28′00″ N	080°26′00″ W.
28°24′00″ N	080°27′00″ W.
28°21′00″ N	080°31′00″ W.
28°16′00″ N	080°31′00″ W.
28°11′00″ N	080°33′00″ W.
28°00′00″ N	080°29′00″ W.
28°00′00″ N	At shoreline.

(6) Dynamic Speed Zones (DSZs):

(i) *Designation.* At all times of year and in all waters along the U.S. Atlantic seaboard, including the entire U.S. Exclusive Economic Zone, except SSZs specified in paragraphs (a)(1) through (5) of this section, a DSZ will be designated upon a determination by NMFS that there exists:

(A) At a minimum, a confirmed visual sighting of three or more North Atlantic right whales within close proximity or confirmed acoustic detection of a North Atlantic right whale; and

(B) A greater than 50 percent likelihood that North Atlantic right whales will remain within the designated DSZ while it is in effect.

(C) A DSZ shall have a minimum effective period of 10 days and shall not exceed 2500 sq nm (8575 sq km) in size for visually triggered DSZs and 400 sq nm (1372 sq km) for acoustically triggered DSZs. The DSZ may be extended for additional periods provided that NMFS makes the required determinations for designating a DSZ specified in this paragraph.

(ii) *Notice of DSZ.* Notice of a DSZ or DSZ extension will be posted at *https://www.fisheries.noaa.gov* and disseminated via U.S. Coast Guard Notice to Mariners, NOAA Weather Radio announcements, and through other practicable appropriate means, as well as by Notice in the **Federal Register** as soon as practicable.

(b) A vessel may operate at a speed in excess of 10 knots (5.1 m/s) in an active designated SSZ or DSZ only if:

(1) Justified because an emergency situation presents a threat to the health, safety, or life of a person;

(2) Necessary to maintain safe maneuvering speed and justified because the vessel is in an area where oceanographic, hydrographic, and/or meteorological conditions severely restrict the maneuverability of the vessel and the need to operate at such speed is confirmed by the pilot on board or, when a vessel is not carrying a pilot, the master of the vessel; or

(3) A vessel less than 65 ft (19.8 m) in length is transiting within areas where a National Weather Service Gale Warning, or other National Weather Service Warning (*e.g.,* Storm Warning, Hurricane Warning) for wind speeds exceeding those that trigger a Gale Warning is in effect.

(c) If a deviation from the requirements in paragraph (a) of this section is necessary under paragraph (b)(1) or (2) of this section, the vessel operator must complete and electronically submit an accurate and complete Safety Deviation Report to NMFS at *https://www.fisheries.noaa.gov* within 48 hours of the deviation. The Safety Deviation Report shall describe, in detail, the circumstances surrounding the deviation and need for the deviation on forms provided by NMFS. The vessel operator and, if the vessel is under pilotage at the time of the deviation, the pilot on board shall attest to the accuracy of the information in the Safety Deviation Report before it is submitted.

(d) Except as provided under paragraph (b) of this section, it is unlawful for any person subject to the jurisdiction of the U.S. to commit, to attempt to commit, to solicit another to commit, or to cause to be committed any speed violation with a vessel subject to the restrictions established in paragraph (a) of this section or a reporting violation described in paragraph (c) of this section.

(e) Any person or vessel claiming the applicability of any exception under paragraph (b) of this section has the burden of proving that the exception applies.

[FR Doc. 2022–16211 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 87, No. 146
Monday, August 1, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 31, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of Partnerships and Public Engagement

Title: Outreach and Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers Program (also known as the 2501 Program).

OMB Control Number: 0503–NEW.

Summary of Collection: The H.R.2—Agriculture Improvement Act of 2018 (hereafter known as the 2018 Farm Bill) requires the Office of Partnerships and Public Engagement to solicit stakeholder feedback for the Socially Disadvantaged Farmers and Ranchers and Veteran Farmers and Ranchers (hereafter known as the 2501 Program). The Office of Partnerships and Public Engagement (OPPE) has established a partnership with the Southern Rural Development Council who will be conducting a survey with USDA's stakeholders including nonprofits, community-based and nongovernmental organizations, higher education institutions, and others.

Need and Use of the Information: Participants and stakeholders of USDA's 2501 Program nationwide will assist OPPE in meeting its stakeholder community needs and to increase the impact of services provided, access to, and participation in USDA's programs and services. The information collected is on a single form, illustrating a short assessment of:

1. The self-identification of partners, collaborators, and stakeholders.

2. Programmatic feedback—a short description of challenges faced during grant administration, outreach, and training efforts.

3. Participants contact information.

4. Evaluation on the effectiveness of program delivery.

If this collection is not approved, the disapproval and the 2501 program will be in noncompliance with the 2018 Farm Bill legislative requirements.

Description of Respondents: Higher education institutions, Not-for-profit institutions; Community-based and non-governmental organizations.

Number of Respondents: 250.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 20.

Ruth Brown,
Departmental Information Collection Clearance Officer.

[FR Doc. 2022–16389 Filed 7–29–22; 8:45 am]
BILLING CODE 3412–88–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of web briefing.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Florida Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a web briefing at 3:00 p.m. ET on Wednesday, August 24, 2022, to hear testimony regarding the civil rights implications of recent legislative changes to Florida's election laws.

DATES: The briefing will take place via Webex on Wednesday, August 24, 2022, from 3:00 p.m.–5:00 p.m. ET

Link to Join (Audio/Visual): https://tinyurl.com/mr3vs6zm.

Telephone (Audio Only): Dial (800) 360–9505 USA Toll Free; access code: 2762 307 7889.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the

conference details found through registering at the web link above. To request additional accommodations, please email *lschiller@usccr.gov* at least seven (7) business days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov*. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 809–9618.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Florida Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcoming Remarks
II. Panelist Presentations and Committee Q&A
III. Public Comment
IV. Closing Remarks
V. Adjournment

Dated: July 26, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–16357 Filed 7–29–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee; Cancellation

AGENCY: Commission on Civil Rights.

ACTION: Notice; cancellation of meeting date.

SUMMARY: The Commission on Civil Rights published a notice in the **Federal Register** concerning a meeting of the Minnesota Advisory Committee. The meeting scheduled for Thursday, July 28, 2022, at 11 a.m. (CT) is cancelled. The notice is in the **Federal Register** of Monday, June 13, 2022, in FR Doc. 2022–12597, in the first and second columns of page 35723.

FOR FURTHER INFORMATION CONTACT: David Barreras, (202) 656–8937, *dbarreras@usccr.gov.*

Dated: July 27, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–16436 Filed 7–29–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Puerto Rico Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Puerto Rico Advisory Committee to the Commission will convene by virtual web conference on Thursday, August 18, 2022, at 11:00 a.m. (AT). The purpose is to discuss project planning.

DATES: August 18, 2022, Thursday, at 11:00 a.m. (AT):

- To join by web conference, use Zoom link: *https://tinyurl.com/4w6a8vzc*; password, if needed: USCCR–PR.
- To join by phone only, dial 1–551–285–1373; Meeting ID: 161 746 3975#.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno at *vmoreno@usccr.gov* or by phone at 434–515–0204.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the WebEx link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the call-in number found through registering at the web link provided above for the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the respective meeting. Written comments may be emailed to Victoria Moreno at *vmoreno@usccr.gov*. All written comments received will be available to the public.

Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. Records and documents discussed during the meeting will be available for public viewing as they become available at the *www.facadatabase.gov*. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Regional Programs Unit at the above phone number or email address.

Agenda: Thursday, August 18, 2022; 11:00 a.m. (AT)

1. Welcome & Roll Call
2. Committee Discussion and Project Planning
3. Next Steps
4. Public Comment
5. Other Business
6. Adjourn

Dated: July 26, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–16358 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

[Docket No. 220814–0134]

Privacy Act of 1974; System of Records

AGENCY: U.S. Department of Commerce, U.S. Census Bureau.

ACTION: Notice of a modified privacy act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act) and Office of Management and Budget (OMB) Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication Under the Privacy Act,'' the Department of Commerce (Department) is issuing this notice of intent to modify a system of records, COMMERCE/CENSUS–7, Special Censuses of Population Conducted for State and Local Government.

DATES: This amended system of records will become effective upon publication, subject to a 30-day comment period in which to comment on new or amended routine uses. To be considered, written comments must be submitted on or before August 31, 2022.

ADDRESSES: Please address comments to: Byron Crenshaw, Privacy Compliance Branch, Room 8H021, U.S. Census Bureau, Washington, DC 20233–3700; telephone (301) 763–7997; or by email, *Byron.Crenshaw@census.gov.*

FOR FURTHER INFORMATION CONTACT: Chief, Privacy Compliance Branch, Policy Coordination Office, Room 8H021, U.S. Census Bureau, Washington, DC 20233–3700 or by email, *Byron.Crenshaw@census.gov.*

SUPPLEMENTARY INFORMATION: This update makes seven program-related changes. The first proposed change to program-related provisions revises the name, purpose, and authority for maintenance of the system of records. This update is a result of a re-alignment of the U.S. Census Bureau's (Census Bureau) systems of records and differentiates the records maintained in this system of records from records maintained by COMMERCE/CENSUS–3, Demographic Survey Collection (Census Bureau Sampling Frame) (name change from COMMERCE/CENSUS–3, Special Censuses, Surveys, and Other Studies, pending publication in the **Federal Register**). Demographic reimbursable surveys that use a sponsor's sampling frame are maintained in this system of records, which is re-named as COMMERCE/CENSUS–7, Demographic Survey Collection (Non-Census Bureau Sampling Frame) (name change from COMMERCE/CENSUS–7, Special Censuses of Population Conducted for State and Local Government pending in the **Federal Register**). The authority for this system of records is revised to cite 13 U.S.C 8(b). The second proposed change updates the categories of individuals in the system to include households and individuals from the U.S. population for surveys maintained in this system of records, and individuals participating in tests, focus groups, and cognitive interviews. Data collected directly from respondents may be supplemented with data from administrative records (including third-party entities) covered by COMMERCE/CENSUS–8, Statistical Administrative Records System. The third proposed change updates the categories of records in the system to provide new detail about the information in the categories including the collection of: Field Representative (FR) and interviewer characteristics, auxiliary data known as paradata, Global Positioning System coordinates, internet protocol (IP) address, mobile device identification, and record identification number in the other information category; the telephone number, email address or equivalent (such as social media screen name) in the respondent contact information category; the date of birth, place of birth, gender, race, age, ethnicity, household and family characteristics, birth expectations, mobility status, citizenship, education, marital status, tribal affiliation, veteran status, and disability status in the demographic information category; the address and geographic codes in the geographical information category; the health problems, type of provider, services provided, cost of services, and quality indicators in the health information category; the income, occupation, employment and unemployment information, health insurance coverage, federal and state program participation, assets and wealth in the economic information category; the commuting, travel, childcare, recreation, community service, and drug and alcohol use in the activity and event related information category; the business name, revenues, and number of employees in the business information category. The fourth proposed change describes the categories of sources of records in the system, which include the subject individuals of surveys, tests, focus groups, cognitive interviews and administrative records. The fifth proposed change updates the policies and practices for storing, retaining, and disposing the records in the system to include recordings of surveys, focus groups, and cognitive interviews. The sixth proposed change updates the policies and practices for retrieval of the records to show linkages between systems of records covered by COMMERCE/CENSUS–3, Demographic Survey Collection (Census Bureau Sampling Frame) (name change from COMMERCE/CENSUS–3, Special Censuses, Surveys, and Other Studies pending publication in the **Federal Register**); COMMERCE/CENSUS–4, Economic Survey Collection; COMMERCE/CENSUS–5, Decennial Census Programs; COMMERCE/CENSUS–8, Statistical Administrative Records System; COMMERCE/CENSUS–9, Longitudinal Employer-Household Dynamics System; COMMERCE/CENSUS–12, Foreign Trade Statistics; and this system of records for approved special research projects with limited access. The seventh proposed change updates the routine uses to clarify that certain individuals (designated as Special Sworn Status individuals) authorized by Title 13 have access to this system of records. Special Sworn Status individuals are subject to the same confidentiality requirements as regular Census employees. This modification also provides minor administrative updates, including non-substantive changes to the description of routine uses of records maintained in the system. This notice does not contain any newly proposed or significantly modified routine uses.

The changes are being made in accordance with OMB Circular A–108 which requires agencies to periodically review system of records notices for accuracy and completeness, paying special attention to changes in the manner in which records are organized, indexed or retrieved that results in a change in the nature or scope of these records; and the Privacy Act, which requires agencies to publish in the **Federal Register** a notice that describes the changes to the system of records.

The Privacy Act also requires each agency that proposes to establish or significantly modify a system of records to provide adequate advance notice of any such proposal to the OMB, the Committee on Oversight and Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate (5 U.S.C. 552a(r)). Significant modifications include adding a new routine use. The purpose of providing the advance notice to OMB and Congress is to permit an evaluation of the potential effect of the proposal on the privacy and other rights of individuals. The Department filed a report describing the modified system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Reform, and the Deputy Administrator of the Information and Regulatory Affairs, OMB on June 22, 2022.

SYSTEM NAME AND NUMBER:

COMMERCE/CENSUS–7, Demographic Survey Collection (Non-Census Bureau Sampling Frame)

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Bowie Computer Center, U.S. Census Bureau, 17101 Melford Blvd., Bowie, Maryland 20715; U.S. Census Bureau, National Processing Center, 1201 East 10th Street, Jeffersonville, Indiana 47103; National Archives and Records Administration, Washington National Records Center, Washington, DC 20409.

SYSTEM MANAGER(S):

Associate Director for Demographic Programs, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233–8000.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

13 U.S.C. 8(b) provides the authority for the Census Bureau to conduct statistical surveys for other agencies.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system of records is for the Census Bureau to collect statistical information from respondents through survey instruments or other means and to conduct methodological

research on improving various aspects of surveys authorized by 13 U.S.C. 8(b) such as: survey sampling frame design; sample selection algorithms; questionnaire development, design, and testing; usability testing of computer software and equipment; post data collection processing; data quality review; and non-response research. The statistical information is collected for other agencies (including, but not limited to, other Federal agencies, state and local governments), where the sample is obtained from non-Census Bureau sources (including, but not limited to, another agency's sample universe).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records covers all individuals sampled for Census Bureau demographic reimbursable surveys that use a sponsor's sampling frame. Survey respondents typically are individuals aged 15 years old or over. Data collected directly from respondents may be supplemented with data from administrative record files received from other Federal, state, or local agencies, or third-party entities (including commercial sources). These administrative record files are collected and processed under the Statistical Administrative Records System. Please see COMMERCE/CENSUS–8, Statistical Administrative Records System for more information. Additionally, subjects of tests, focus groups and cognitive interviews (to test understanding of a new survey form, for example) that use a sponsor's or non-Census Bureau sampling frame are maintained in this system of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system of records consist of working statistical files (*i.e.,* those files being analyzed to produce survey results), survey data files (*i.e.,* those files containing answers directly from the respondent), and/or data contact files (*i.e.,* those files used for contacting respondents). Records in this system of records may contain information such as: Respondent contact information—telephone number, email address or equivalent (such as social media screen name), etc.; Demographic information—date of birth, place of birth, gender, race, ethnicity, household and family characteristics, birth expectations, mobility status, citizenship, education, marital status, tribal affiliation, veteran status, disability status, etc.; Geographical information—address and geographic codes; Health information—health problems, type of provider, services provided, cost of services, quality indicators, etc.; Economic information—income, occupation, employment and unemployment information, health insurance coverage, federal and state program participation, assets and wealth, etc.; Activity and event related information—commuting, travel, childcare, recreation, community service, and drug and alcohol use, etc.; Processing Information: Field Representative (FR) related information–Census Bureau FR code, which is used only as an administrative control item for each record. Also, records collected by surveys, cognitive interviews, and pilot tests may collect other information including: Global Positioning System (GPS) coordinates, internet protocol (IP) address, mobile device identification, and record identification number. GPS coordinates, IP addresses, and mobile device identification may be collected when a mobile device is used to respond to surveys collected under Title 13 maintained in this system of records. Auxiliary data known as paradata may also be collected and used to evaluate and manage the survey process. Paradata maintained in this system of records includes method of interview; time and date stamps; audit trail and trace files; item non-response, refusals, deletion changes, and don't know responses; etc. Access to paradata by survey sponsors is governed by agreements in place; any paradata provided to survey sponsors will be stripped of all personally identifiable information of Census Bureau staff.

Another category of records contains two types of records that are maintained in unique data sets that are extracted or combined on an as-needed basis using the unique non-identifying codes but with some name information retained. One type of record contains: Business information—business name, revenues, number of employees, and industry codes in support of economic statistical products. The other type contains: Respondent contact information—name, address, telephone number, age, and sex in support of survey and census data collection efforts. Records in this system of records may be supplemented with datasets covered by COMMERCE/CENSUS–8, Statistical Administrative Records System. However, for limited short-term projects, some records obtained from datasets maintained in COMMERCE/CENSUS–8, Statistical Administrative Records System, may contain some direct identifiers (such as name, Social Security Number (SSN)) that have been retained in working statistical files for this collection.

RECORD SOURCE CATEGORIES:

In general, the records in this system come from subject individuals covered by agency surveys that use the Census Bureau to collect their information and subjects of tests, focus groups, and cognitive interviews. Information on subject individuals for this system of records may also come from files collected and processed under the Statistical Administrative Records System. These administrative record files are obtained from federal, state, and local agencies and third-party entities (*e.g.,* commercial sources). Federal agency sources include: the Departments of Agriculture, Education, Health and Human Services, Homeland Security, Housing and Urban Development, Labor, Treasury, Veterans Affairs, and from the Office of Personnel Management, the Social Security Administration, the Selective Service System and the U.S. Postal Service, etc. Please see COMMERCE/CENSUS–8, Statistical Administrative Records System, for more information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

There are no routine uses for this system of records. A routine use is describing the sharing of data with a third-party. Because the data under this SORN are covered under the protection of Title 13 U.S.C., the Census Bureau is legally forbidden to share any information collected under this SORN. Access to records maintained in the system is restricted to Census Bureau employees and certain individuals authorized by Title 13, U.S. Code (designated as Special Sworn Status individuals). These individuals are subject to the same confidentiality requirements as regular Census Bureau employees.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records (including, but not limited to, sound and video files of surveys, focus groups, and cognitive interviews, or electronic datasets) will be stored in a secure computerized system and electronic or magnetic media; output data will be either electronic files or paper copies. Paper copies and electronic or magnetic media will be stored in a secure area within a locked drawer or cabinet. Data sets may be accessed only by authorized personnel. Control lists will be used to limit access to those employees with a need to know; rights will be granted based on job functions.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Staff producing final statistical products will have access only to data sets from which direct identifiers were deleted and replaced by a unique non-identifying code (a Protected Identification Key (PIK)) internal to the Census Bureau and to data sets covered by COMMERCE/CENSUS–8, Statistical Administrative Records System, where direct identifiers have been deleted and replaced by a PIK. For additional information on the PIK, see the COMMERCE/CENSUS–8, Statistical Administrative Records System. A limited number of sworn Census Bureau staff are permitted to retrieve records containing direct identifiers (such as a name or SSN). Records in this system of records may also be linked to COMMERCE/CENSUS–3, Demographic Survey Collection (Census Bureau Sampling Frame) (name change from COMMERCE/CENSUS–3, Special Censuses, Surveys, and Other Studies pending publication in the **Federal Register**); COMMERCE/CENSUS–4, Economic Survey Collection; COMMERCE/CENSUS–5, Decennial Census Programs; COMMERCE/CENSUS–8, Statistical Administrative Records System; COMMERCE/CENSUS–9, Longitudinal Employer-Household Dynamics System; and COMMERCE/CENSUS–12, Foreign Trade Statistics where records may be retrieved by a PIK or an identifier common to all eight systems of records to conduct approved special research projects with limited access by individuals with Special Sworn Status and Census Bureau staff.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with the General Records Schedule and Census Bureau's records control schedules that are approved by the National Archives and Records Administration (NARA) as applicable or are retained in accordance with agreements developed with sponsoring agencies. The Census Bureau issues an Annual Safeguard Activity Report that includes information on the retention and disposal of federal administrative record source data. Permanent data will be archived at the Census Bureau.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The Census Bureau is committed to respecting respondent privacy and protecting confidentiality. Through the Data Stewardship Program, we have implemented management, operational, and technical controls, and practices to ensure high-level data protection to respondents of other agency surveys conducted by the Census Bureau.

(1) A policy against unauthorized browsing protects respondent information from casual or inappropriate use by any individual with access to Census Bureau data. Unauthorized browsing is defined as the act of searching or looking through, for other than work-related purposes, protected personal or business-related information that directly or indirectly identifies individuals or businesses. Unauthorized browsing is prohibited.

(2) All Census Bureau employees and individuals with Special Sworn Status permitted to access the system are subject to the restrictions, penalties, and prohibitions of the sponsoring agency's protection statutes (including, but not limited to the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) of 2002 (Pub. L. 107–347)), and provisions of the Privacy Act, as applicable. Data maintained in this system of records is subject to the restrictions, penalties, and prohibitions of the sponsoring agency's statutes. If it is determined individuals with Special Sworn Status require access, they will undergo the appropriate background checks and be required to sign the Census Bureau's affidavit of non-disclosure.

(3) All Census Bureau employees and individuals with Special Sworn Status will be advised of regulations governing the confidentiality of the data and will be required to complete Data Stewardship Awareness Training annually.

(4) All Census Bureau computer systems that maintain sensitive information are in compliance with the Federal Information Security Management Act (FISMA), as amended (44 U.S.C. 3551–3559), which includes auditing and implementing controls over restricted data.

(5) The use of unsecured telecommunications to transmit individually identifiable information is prohibited.

(6) Paper copies that contain sensitive information are stored in secure facilities in a locked drawer or file cabinet behind a locked door.

(7) Additional data files containing direct identifiers will be maintained for the purpose of data collection activities (such as respondent contact and pre-loading an instrument for a continued interview) or for approved special research projects and will not be transferred to, or maintained on, working statistical files.

RECORD ACCESS PROCEDURES:

None.

CONTESTING RECORD PROCEDURES:

None.

NOTIFICATION PROCEDURES:

None.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

It is the Census Bureau's policy and practice to conduct statistical studies under 13 U.S.C. 8(b) for those agencies that, by law, maintain and use the data solely for statistical purposes and make no determinations from the records as to any identifiable individual. Pursuant to 5 U.S.C. 552a(k)(4), this system of records is exempted from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act. These subsections include, but are not limited to, certain requirements concerning notification, access, and contest procedures. This exemption is made in accordance with the Department's rules which appear in 15 CFR part 4 subpart B.

HISTORY:

67 FR 66611, November 1, 2002, Notice of Proposed Amendment to Privacy Act System of Records.

Jennifer Goode,

Deputy Director and Acting Director, Office of Privacy and Open Government, U.S. Department of Commerce.

[FR Doc. 2022–16367 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 1, 2022.

FOR FURTHER INFORMATION CONTACT: John Hoffner, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–3315.

SUPPLEMENTARY INFORMATION: On May 6, 2022, the U.S. Department of Commerce (Commerce), pursuant to section 702(h) of the Trade Agreements Act of 1979 (as amended) (the Act), published the quarterly update to the annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of

duty covering the period October 1, 2021, through December 31, 2021.[1] In the *Fourth Quarter 2021 Update,* we requested that any party that has information on foreign government subsidy programs that benefit articles of cheese subject to an in-quota rate of duty submit such information to Commerce.[2] We received no comments, information or requests for consultation from any party.

Pursuant to section 702(h) of the Act, we hereby provide Commerce's update of subsidies on articles of cheese that were imported during the period January 1, 2022, through March 31, 2022. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

Commerce will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed. Commerce encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing through the Federal eRulemaking Portal at *https://www.regulations.gov,* Docket No. ITA–2020–0005, ''Quarterly Update to Cheese Subject to an In-Quota Rate of Duty.'' The materials in the docket will not be edited to remove identifying or contact information, and Commerce cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. All comments should be addressed to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: July 26, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross[3] subsidy ($/lb)	Net[4] subsidy ($/lb)
27 European Union Member States[5]	European Union Restitution Payments	$0.00	$0.00
Canada	Export Assistance on Certain Types of Cheese	0.44	0.44
Norway	Indirect (Milk) Subsidy	0.00	0.00
	Consumer Subsidy	*0.00*	*0.00*
	Total	0.00	0.00
Switzerland	Deficiency Payments	0.00	0.00

[FR Doc. 2022–16374 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for September 2022

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in September 2022 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Paper Clips from China, A–570–826 (5th Review)	Thomas Martin, (202) 482–3936.
Brass Sheet & Strip from France, A–427–602 (5th Review)	Mary Kolberg, (202) 482–1785.
Brass Sheet & Strip from Germany, A–428–602 (5th Review)	Mary Kolberg, (202) 482–1785.
Brass Sheet & Strip from Italy, A–475–601 (5th Review)	Mary Kolberg, (202) 482–1785.
Brass Sheet & Strip from Japan, A–588–704 (5th Review)	Mary Kolberg, (202) 482–1785.
Stainless Steel Sheet & Strip in Coils from Japan, A–588–845 (4th Review)	Mary Kolberg, (202) 482–1785
Stainless Steel Sheet & Strip in Coils from South Korea, A–580–834 (4th Review)	Mary Kolberg, (202) 482–1785.
Stainless Steel Sheet & Strip in Coils from Taiwan, A–583–831 (4th Review)	Mary Kolberg, (202) 482–1785.
Steel Nails from the United Arab Emirates, A–520–804 (2nd Review)	Thomas Martin, (202) 482–3936.

[1] *See Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty,* 87 FR 27096 (May 6, 2022) (*Fourth Quarter 2021 Update*).

[2] *Id.*

[3] Defined in 19 U.S.C. 1677(5).

[4] Defined in 19 U.S.C. 1677(6).

[5] The 27 member states of the European Union are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden.

	Department contact
Countervailing Duty Proceedings	
Stainless Steel Sheet & Strip in Coils from South Korea, C–580–835 (4th Review)	Mary Kolberg, (202) 482–1785.
Suspended Investigations	
Uranium from Russia, A–821–802 (5th Review)	Jacky Arrowsmith, (202) 482–5255.

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

This notice is not required by statute but is published as a service to the international trading community.

Dated: July 20, 2022.

Scot Fullerton,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–16426 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The U.S. International Trade Commission (the ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable August 1, 2022.

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following antidumping and countervailing duty order(s) and suspended investigation(s):

DOC Case No.	ITC Case No.	Country	Product	Commerce contact
A–570–827	731–TA–669	China	Cased Pencils (5th Review).	Mary Kolberg, (202) 482–1785.
A–351–849	731–TA–1334	Brazil	Emulsion Styrene-Butadiene Rubber (1st Review).	Thomas Martin, (202) 482–3936.
A–201–848	731–TA–1336	Mexico	Emulsion Styrene-Butadiene Rubber (1st Review).	Thomas Martin, (202) 482–3936.
A–455–805	731–TA–1337	Poland	Emulsion Styrene-Butadiene Rubber (1st Review).	Thomas Martin, (202) 482–3936.
A–580–890	731–TA–1335	South Korea	Emulsion Styrene-Butadiene Rubber (1st Review).	Thomas Martin, (202) 482–3936.

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *https://enforcement.trade.gov/sunset/*. All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[2]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC 's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: July 20, 2022.

Scot Fullerton,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–16430 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[2] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC217]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will hold an online informational meeting on the NMFS Environmental Justice Strategy.

DATES: The online meeting will be held Friday, August 19, 2022 at 11 a.m., Pacific Daylight Time.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: James Seger, Staff Officer, Pacific Council; telephone: (503) 820–2416.

SUPPLEMENTARY INFORMATION: NMFS is requesting comment on the NOAA Fisheries' Draft Equity and Environmental Justice Strategy. This webinar will provide information about that strategy and the process moving forward. Pacific Council Advisory Body members are encouraged to attend to receive information that will be useful when they begin considering recommendations to the Pacific Council, which is scheduled to review the strategy and provide comments to NMFS at the September Pacific Council meeting.

The meeting is informational and no issues discussed at this meeting will be the subject of formal action during this meeting.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 27, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–16439 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC123]

Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: NMFS has determined that eight exempted fishing permit (EFP) applications warrant further consideration and is requesting public comment on the applications. All EFP applicants request an exemption from a single prohibition (the use of unauthorized gear to harvest highly migratory species (HMS)) under the Fishery Management Plan for the United States (U.S.) West Coast Fisheries for Highly Migratory Species (HMS FMP) to test the effects and efficacy of using standard deep-set buoy gear (DSBG), and/or deep-set linked buoy gear (DSLBG), to harvest swordfish and other HMS off of the U.S. West Coast.

DATES: Comments must be submitted in writing by August 31, 2022.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2022–0063, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2022–0063 Click the ''Comment'' icon, complete the required fields, and enter or attach your comments. EFP applications will be available under Relevant Documents through the same link.
- *Mail:* Attn: Chris Fanning, NMFS West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier ''NOAA–NMFS–2022–0063'' in the comments.
- *Email: wcr.hms@noaa.gov.*

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record, and will be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS, West Coast Region, 562–980–4198.

SUPPLEMENTARY INFORMATION: DSBG fishing trials have occurred for the past 11 years (2011–2015, research years; 2015–2021, EFP years) in the U.S. West Coast Exclusive Economic Zone (EEZ) off California. The data collected from this fishing activity have demonstrated DSBG to achieve about a 95 percent marketable catch composition. Non-marketable catch rates have remained low and all non-marketable catch were released alive. Due to DSBG being actively tended, strikes are capable of being detected within minutes of a hooking on the line; as a result, all catches can be tended quickly, with catch brought to the vessel in good condition. To date, DSBG has had five observed or reported interactions with protected species, four Northern elephant seals and one loggerhead sea turtle, which were not seriously injured and were released alive due to the quick strike detection of the gear. Northern elephant seals are protected by the Marine Mammal Protection Act, and loggerhead sea turtles are protected by the Endangered Species Act.

DSLBG trials have produced similar data to DSBG activities. Swordfish and other marketable species have represented about 90 percent of the catch. Non-marketable species are released alive due to DSLBG quick strike detection and active gear tending. To date, there have been no observed or reported interactions with protected species using DSLBG.

At its June 2022 meeting, the Pacific Fishery Management Council (Council) received fourteen applications for EFPs in time for review and recommended that NMFS issue eight of these EFPs to authorize use of DSBG and/or DSLBG and recommended further Council consideration of the remaining six EFP applications at its September 2022 meeting. Council recommendations can be found on the June 2022 meeting Decision Document here, *https://www.pcouncil.org/june-2022-decision-summary-document/#highly-migratory-species-toc-745c05cb-bb34-4795-a2fd-4ef546ec7a96.*

At this time, NMFS is requesting public comment on the eight DSBG EFP applications recommended by the Council in June 2022. NMFS will take the Council's comments into consideration along with public comments on whether or not to issue these EFPs. If all eight of the June 2022 Council recommended applications are approved, a total of 59 vessels would be allowed to fish with permitted exemptions from the prohibitions related to unauthorized fishing gears used to target swordfish within the U.S. EEZ under the HMS FMP throughout the duration of their respective EFPs. Forty-two of the vessels would be permitted to fish with DSBG only, and 17 of the vessels would be permitted to fish using both DSBG and DSLBG. Aside from the exemption described above, vessels fishing under an EFP would be subject to all other regulations implemented in the HMS FMP, including measures to protect sea turtles, marine mammals, and seabirds.

NMFS will consider all public comments submitted in response to this **Federal Register** notice prior to issuance of any EFP. Additionally, NMFS has analyzed the effects of issuing DSBG and DSLBG EFPs in accordance with the National Environmental Policy Act and NOAA's Administrative Order 216–6, as well as for compliance with other applicable laws, including Section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), which requires the agency to consider whether the proposed action is likely to jeopardize the continued existence and recovery of any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 27, 2022.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–16399 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC219]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meetings.

SUMMARY: Several fishery management bodies on the East Coast of the U.S. are convening two public webinars to continue work on the East Coast Climate Change Scenario Planning initiative. This is a joint effort of the Atlantic States Marine Fisheries Commission, the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, and NOAA Fisheries. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: These webinars will be held on Wednesday, August 17, 2022, from 3 p.m. to 5 p.m. and Tuesday, August 23, 2022, from 10 a.m. to 12 p.m.

ADDRESSES: The meetings will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION:

Background: Over the past year, East Coast fishery management bodies have been collaborating on a climate change scenario planning initiative designed to prepare fishing communities and fishery managers for an era of climate change. The goals of this project are to assess how climate change might affect stock distribution and availability of East Coast marine fisheries over the next 20 years and to identify the implications for fishery management and governance.

In June 2022, a group of about 70 stakeholders attended a workshop to develop an initial set of scenarios, describing several different possible futures facing East Coast fisheries out to 2042. The next step in the scenario planning process will be two scenario deepening webinars to be held in August 2022. These webinars will offer all interested stakeholders an opportunity to review, validate, and add details to the initial scenarios. Each 2-hour session will begin with an overview of the outputs and draft stories from the initial scenarios. Webinar participants will then have an opportunity to add comments and suggestions to make the scenarios more plausible, challenging, relevant, memorable, and divergent. For each scenario, participants will be encouraged to imagine specific examples about impacts to particular species, regions, and communities. Participants only need to attend *one* of the two webinars. Registration information will be made available on the initiative web page at: *https://www.mafmc.org/climate-change-scenario-planning.* A summary of the draft scenarios is being developed and will be posted to the same web page once available. Participants are encouraged to review this summary before the webinars and come prepared to share comments on the specific scenarios.

The outcome of the two webinars will be a more detailed set of scenarios that will be used as a platform for later stages of the process, looking specifically at how fishery management and governance must change to be prepared for a future of climate change.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 27, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–16437 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC214]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person with a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This hybrid meeting will be held on Thursday, August 18, 2022, at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8844799612808002062.*

ADDRESSES: The meeting will be held at the Four Points by Sheraton, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee plans to review a final report from Exempted Fishing Permit project #19066 related to clam dredge-based surveys within the Great South Channel Habitat Management Area and then discuss the utility of the study for managing fishing gear impacts in the area. The Committee also will: (1) receive updates on Blue Water Fisheries offshore aquaculture project and development of the required Environmental Impact Statement; (2) discuss the potential scope and objectives for a related Council action to authorize Atlantic salmon aquaculture in the EEZ; (3) discuss ongoing offshore wind development activities including opportunities for comment; and (4) discuss potential 2023 habitat-related work priorities. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date.

This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 27, 2022.

Rey Israel Marquez,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2022–16438 Filed 7–29–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0066]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Higher Education Emergency Relief Fund (HEERF) (a)(2) Construction, Renovation, & Real Property Projects Prior Approval Request Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 31, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Karen Epps, (202) 453–6337.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Higher Education Emergency Relief Fund (HEERF) (a)(2) Construction, Renovation, & Real Property Projects Prior Approval Request Form.

OMB Control Number: 1840–0861.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 1,200.

Total Estimated Number of Annual Burden Hours: 600.

Abstract: The Consolidated Appropriations Act, 2022 (Pub. L. 117–103) signed by the President on March 15, 2022, provides new flexibilities and requirements around using HEERF (a)(2) grant funds for construction, renovation, and real property projects as a result of Congress expanding the allowable uses of funds under the HEERF (a)(2) programs. This collection includes the required prior approval form that must be completed by eligible institutions seeking to use (a)(2) funds for this purpose.

Dated: July 27, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–16391 Filed 7–29–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0063]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Foreign Schools Eligibility Criteria Apply To Participate in Title IV HEA Programs

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 31, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the

following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Foreign Schools Eligibility Criteria Apply to Participate in Title IV HEA Programs.

OMB Control Number: 1845–0105.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals or Households; Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 27,578.

Total Estimated Number of Annual Burden Hours: 8,023.

Abstract: This request is for an extension of the information collection of the requirements in the policies and procedures related to the eligibility of foreign schools to apply to participate in Title IV, HEA programs that were added by the Higher Education Opportunity Act of 2008 (HEOA). The information in 34 CFR 600.54, 600.55, 600.56, and 600.57 is used by the Department during the initial review for eligibility certification, recertification and annual evaluations. These regulations help to ensure that all foreign institutions participating in the Title IV, HEA programs are meeting the minimum participation standards.

Dated: July 27, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–16390 Filed 7–29–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0069]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 31, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Angela Hernandez-Marshall, (202) 987–0202.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Indian Education Professional Development Grants Program: GPRA and Service Payback Data Collection.

OMB Control Number: 1810–0698.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals or Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 2,326.

Total Estimated Number of Annual Burden Hours: 3,004.

Abstract: The Indian Education Professional Development program, authorized under title VI, part A of the Elementary and Secondary Education Act of 1965, as amended (ESEA), is designed to increase the number of, provide training to, and improve the skills of American Indian or Alaska Natives serving as teachers and school administrators in local educational agencies that serve a high proportion of American Indian or Alaska Native students.

Section 7122(h) of the ESEA (20 U.S.C. 7442(h)) requires that individuals who receive financial assistance through the Indian Education Professional Development program subsequently complete a service obligation equivalent to the amount of time for which the participant received financial assistance. Participants who do not satisfy the requirements of the regulations must repay all or a pro-rated part of the cost of assistance, in accordance with 20 U.S.C. 7442(h) and 34 CFR 263.9(a)(3). The regulations in part 263 implement requirements governing, among other things, the service obligation and reporting requirements of the participants in the Indian Education Professional Development program, and repayment of financial assistance by these participants. In order for the Federal Government to ensure that the goals of the program are achieved, certain data

collection, recordkeeping, and documentation are necessary.

In addition, GPRA requires Federal agencies to establish performance measures for all programs, and the Department has established performance measures for the Indian Education Professional Development program. Data collection from participants who have received financial assistance under the Indian Education Professional Development program is a necessary element of the Department's effort to evaluate progress on these measures.

The Department tracks participants who are receiving or have previously received support through the Indian Education Professional Development program. Participants must sign a payback agreement that includes contact information. Additionally, the Department receives information about participants from institutions of higher education (IHEs) and other eligible grantees when participants are no longer receiving assistance through the Indian Education Professional Development program. When the performance period is complete, the participant data are collected from the grantee and from the participants.

Dated: July 27, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–16392 Filed 7–29–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC22–95–000.
Applicants: Cambria Wind, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Cambria Wind, LLC.
Filed Date: 7/22/22.
Accession Number: 20220722–5177.
Comment Date: 5 p.m. ET 8/12/22.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–188–000.
Applicants: KCE NY 6, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of KCE NY 6, LLC.
Filed Date: 7/26/22.
Accession Number: 20220726–5039.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: EG22–189–000.
Applicants: KCE TX 13, LLC.
Description: KCE TX 13, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/26/22.
Accession Number: 20220726–5043.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: EG22–190–000.
Applicants: KCE TX 19, LLC.
Description: KCE TX 19, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/26/22.
Accession Number: 20220726–5073.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: EG22–191–000.
Applicants: KCE TX 21, LLC.
Description: EG or FC of KCE TX 21, LLC submits Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/26/22.
Accession Number: 20220726–5078.
Comment Date: 5 p.m. ET 8/16/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–79–000; QF20–1379–001.
Applicants: Hollow Road Solar, LLC, Hollow Road Solar, LLC.
Description: Petition for Enforcement Pursuant to Section 210(h) of the Public Utility Regulatory Policies Act of 1978 of Hollow Road Solar, LLC.
Filed Date: 7/25/22.
Accession Number: 20220725–5167.
Comment Date: 5 p.m. ET 8/15/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3336–002.
Applicants: Command Power Corp.
Description: Notice of Non-Material Change in Status of Command Power Corp.
Filed Date: 7/25/22.
Accession Number: 20220725–5153.
Comment Date: 5 p.m. ET 8/15/22.

Docket Numbers: ER22–2300–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Notice of Cancellation of Transmission Service Agreement No. 17 for Non-Firm Point-to-Point Transmission Service entered into by and between PJM and Carolina Power & Light Company.
Filed Date: 7/1/22.
Accession Number: 20220701–5474.
Comment Date: 5 p.m. ET 8/1/22.

Docket Numbers: ER22–2316–000.
Applicants: BP Energy Company.
Description: Motion for Leave to File Report Out of Time and a Report of bp Energy Company.
Filed Date: 7/6/22.
Accession Number: 20220706–5162.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2483–000.
Applicants: Alta Farms Wind Project II, LLC.
Description: Baseline eTariff Filing: Alta Farms Wind Project II, LLC MBR Tariff to be effective 9/23/2022.
Filed Date: 7/25/22.
Accession Number: 20220725–5140.
Comment Date: 5 p.m. ET 8/15/22.

Docket Numbers: ER22–2484–000.
Applicants: New York State Electric & Gas Corporation.
Description: § 205(d) Rate Filing: Engineering and Procurement Agreement with Lake Mariner Data LLC to be effective 3/24/2022.
Filed Date: 7/25/22.
Accession Number: 20220725–5143.
Comment Date: 5 p.m. ET 8/15/22.

Docket Numbers: ER22–2485–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2022–07–26_SA 3239 MEC-Wisconsin Power and Light 2nd Rev GIA (J534) to be effective 7/15/2022.
Filed Date: 7/26/22.
Accession Number: 20220726–5011.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2486–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–07–26_SA 2685 Ameren-SIPC_Irvington Dix Proj Spec 3 to be effective 9/24/2022.
Filed Date: 7/26/22.
Accession Number: 20220726–5015.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2487–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3127R6 Montana-Dakota Utilities Co. NITSA NOA to be effective 7/1/2022.
Filed Date: 7/26/22.
Accession Number: 20220726–5024.
Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2488–000.
Applicants: Arizona Public Service Company.
Description: Petition for Waiver of Arizona Public Service Company.
Filed Date: 7/26/22.
Accession Number: 20220726–5049.

Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2489–000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: TEP, PNM & PDE LGIA to be effective 6/29/2022.

Filed Date: 7/26/22.

Accession Number: 20220726–5058.

Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2490–000.

Applicants: Dominion Energy South Carolina, Inc.

Description: § 205(d) Rate Filing: Carolina Reserve Sharing Group Operating Manual to be effective 10/1/2022.

Filed Date: 7/26/22.

Accession Number: 20220726–5077.

Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2491–000.

Applicants: Database returns error. There is a problem with archive data and system. Contact Administrator.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–07–26_SA 3874 Wolverine Power-Grand Haven MIFA to be effective 7/30/2022.

Filed Date: 7/26/22.

Accession Number: 20220726–5088.

Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2492–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PRPA—BHCE JDA update to be effective 8/1/2022.

Filed Date: 7/26/22.

Accession Number: 20220726–5092.

Comment Date: 5 p.m. ET 8/16/22.

Docket Numbers: ER22–2493–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: § 205(d) Rate Filing: 2022–07–26 ITCLLC–CIAC-Lakefield Jct-Nobles 713 to be effective 7/27/2022.

Filed Date: 7/26/22.

Accession Number: 20220726–5098.

Comment Date: 5 p.m. ET 8/16/22.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16414 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–489–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on July 15, 2022, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in the above referenced docket, a prior notice pursuant to Section 157.205, 157.210 and 157.216 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificate issued by the Commission in Docket No. CP82–401–000, seeking authorization to install and operate an approximately 1.57-mile expansion of its 36-inch-diameter MNM80105 Ventura Interconnect to Farmington E-Line in Freeborn and Steele counties, Minnesota. The proposed facilities will serve firm transportation totaling 16,845 dekatherms per day to serve the local distribution customers for delivery points in the upper midwestern United States. The proposed construction is estimated to cost approximately $12,227,012, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Michael T. Loeffler, Senior Director, Certificates and External Affairs, Northern Natural Gas Company, 1111 South 103rd Street, Omaha, Nebraska 68124, by telephone at (402) 398–7103, or by email at *mike.loeffler@nngco.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on September 23, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is September 23, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is September 23, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before September 23, 2022. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–489–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.'' The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP22–489–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Michael T. Loeffler, Senior Director, Certificates and External Affairs, Northern Natural Gas Company, 1111 South 103rd Street, Omaha, Nebraska 68124, or by email at *mike.loeffler@nngco.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: July 25, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–16349 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2475–000]

Top Hat Wind Energy Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Top Hat Wind Energy Holdings LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 15, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human

Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16416 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2482–000]

25 Mile Creek Windfarm LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of 25 Mile Creek Windfarm LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 15, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16420 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2474–000]

Top Hat Wind Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Top Hat Wind Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 15, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16421 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–461–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Southside Reliability Enhancement Project, Request for Comments on Environmental Issues, and Schedule for Environmental Review

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Southside Reliability Enhancement Project (Project) involving construction and operation of facilities by Transcontinental Gas Pipe Line Company, LLC (Transco) in Virginia and North Carolina. The Commission will use this EIS in its decision-making process to determine whether the Project is in the public convenience and necessity. The schedule for preparation of the EIS is discussed in the Schedule for Environmental Review section of this notice.

As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' By notice issued on December 15, 2021, in Docket No. PF22–1–000, the Commission opened a scoping period during Transco's planning process for the Project and prior to filing a formal application with the Commission, a process referred to as ''pre-filing.'' Transco has now filed an application with the Commission, and staff intends to prepare an EIS that will address the concerns raised during the pre-filing scoping process and in response to this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document, including comments on potential alternatives and impacts, and any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on August 24, 2022. Comments may be submitted in written form. Further details on how to submit comments are provided in the Public Participation section of this notice.

As mentioned above, during the pre-filing process, the Commission opened a scoping period which expired on January 14, 2022; however, Commission staff continued to accept comments during the entire pre-filing process. Staff also held one virtual scoping session to take oral scoping comments. The session was held via teleconference on January 5, 2022. All substantive written and oral comments provided during pre-filing will be addressed in the EIS. Therefore, if you submitted comments on this Project to the Commission during the pre-filing process in Docket No. PF22–1–000 you do not need to file those comments again.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the Project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not grant, exercise, or oversee the exercise of eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Transco provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature, which is also located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22–461–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Additionally, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Summary of the Proposed Project, the Project Purpose and Need, and Expected Impacts

Transco proposes to construct and operate one new compressor station and modify two existing compressor stations and three existing meter stations in North Carolina and Virginia. The Project would provide 160,000 dekatherms per day (Dth/d) of incremental firm transportation capacity from Transco's

Compressor Station 165 in Pittsylvania County, Virginia and 263,400 Dth/d from the Pine Needle liquified natural gas storage facility to delivery points in North Carolina. Transco's stated purpose of the additional capacity is to reduce supply constraints when natural gas demand is the highest, support overall reliability and diversification of energy infrastructure in the mid-Atlantic, and benefit the public by promoting competitive markets and increasing the security of natural gas supplies to major delivery points serving the mid-Atlantic.

The Project would consist of the following facilities:

- installation of a new compressor station (Compressor Station 168) which includes one new 33,000 horsepower electric motor-driven compressor unit, and installation of new mainline valves on South Virginia Lateral A-Line and B-Line at the new Compressor Station 168 in Mecklenburg County, Virginia;
- addition of one 16,000 horsepower electric motor-driven compressor unit at existing Compressor Station 166 in Pittsylvania County, Virginia;
- installation of piping modifications to allow for flow reversal at existing Compressor Station 155 in Davidson County, North Carolina;
- replacement of one meter run to increase delivery volumes at the existing Ahoskie Meter Station in Hertford County, North Carolina;
- installation of new facilities to increase delivery volumes at the existing Pleasant Hill Meter Station in Northampton County, North Carolina; and
- upgrade meter and controls and debottleneck piping at the existing Iredell Meter Station in Iredell County, North Carolina.

The general location of the proposed Project facilities is shown in appendix 1.[1]

Based on the environmental information provided by Transco, construction and modification of the proposed facilities would disturb about 122 acres of land, which includes temporary construction workspace, permanent aboveground facility areas, and permanent access roads. Following construction, Transco would maintain about 119 acres for permanent operation of the Project's facilities; the remaining 3 acres would be restored and revert to former uses.

Based on an initial review of Transco's proposal and public comments received during the pre-filing process, Commission staff have identified several expected impacts that will be addressed in the EIS. The Project would impact agricultural, pasture, forest, open, residential, and industrial land uses. Further, the EIS will describe impacts on environmental justice communities, federally and state-listed species, air quality, climate change, and connected actions/cumulative impacts. The Project would not directly impact any wetlands or waterbodies.

The NEPA Process and the EIS

The EIS issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed Project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- air quality and noise;
- climate change;
- cumulative impacts; and
- reliability and safety.

Commission staff will also make recommendations on how to lessen or avoid impacts on the various resource areas. Your comments will help Commission staff focus its analysis on the issues that may have a significant effect on the human environment.

The EIS will present Commission staff's independent analysis of the issues. Staff will prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any draft and final EIS will be available in electronic format in the public record through eLibrary[2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

Alternatives Under Consideration

The EIS will evaluate reasonable alternatives that are technically and economically feasible and meet the purpose and need for the proposed action.[3] Alternatives currently under consideration include:

- the no-action alternative, meaning the Project is not implemented;
- existing and proposed natural gas pipeline system alternatives; and
- alternative locations for new aboveground facilities.

With this notice, the Commission requests specific comments regarding any additional potential alternatives to the proposed action or segments of the proposed action. Please focus your comments on reasonable alternatives (including alternative facility sites) that meet the Project objectives, are technically and economically feasible, and avoid or lessen environmental impact.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission initiated section 106 consultation for the Project in the notice issued on December 15, 2021, with the applicable State Historic Preservation Office(s), and other government agencies, interested Indian tribes, and the public to solicit their views and concerns regarding the Project's potential effects on historic properties.[4] This notice is a continuation of section 106 consultation for the Project. The Project EIS will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Schedule for Environmental Review

On June 7, 2022, the Commission issued its Notice of Application for the Project. Among other things, that notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final EIS for the Project. This notice identifies the Commission staff's planned schedule for completion of the

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary''. For instructions on connecting to eLibrary, refer to the last page of this notice. At this time, the Commission has suspended access to the Commission's Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll free, (886) 208–3676 or TTY (202) 502–8659.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] 40 CFR 1508.1(z).

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

final EIS for the Project, which is based on an issuance of the draft EIS in October 2022.

Issuance of Notice of Availability of the final EIS—(February 24, 2023)

90-day Federal Authorization Decision Deadline [5]—(May 25, 2023)

If a schedule change becomes necessary for the final EIS, an additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Permits and Authorizations

The table below lists the anticipated permits and authorizations for the Project required under federal law. This list may not be all-inclusive and does not preclude any permit or authorization if it is not listed here. Agencies with jurisdiction by law and/or special expertise may formally cooperate in the preparation of the Commission's EIS and may adopt the EIS to satisfy its NEPA responsibilities related to this Project. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Agency	Permit
FERC	Section 7 of the *Natural Gas Act.*
U.S. Fish and Wildlife Service	Section 7 of *Endangered Species Act* Consultation.
State Historic Preservation Office	Section 106 of *National Historic Preservation Act* Consultation.

Environmental Mailing List

This notice is being sent to the Commission's current environmental mailing list for the Project which includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for Project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed Project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP22–461–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field (*i.e.,* CP22–461–000). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information.

Dated: July 25, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–16350 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2483–000]

Alta Farms Wind Project II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Alta Farms Wind Project II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 15, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor

[5] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16417 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2481–000]

Seven Cowboy Wind Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Seven Cowboy Wind Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 15, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16423 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP19–488–000]

Columbia Gulf Transmission, LLC; Notice of Request for Extension of Time

Take notice that on July 22, 2022, Columbia Gulf Transmission, LLC (Columbia Gulf) requested that the Federal Energy Regulatory Commission (Commission) grant an extension of time (2022 Extension of Time Request), until December 31, 2022, to construct and place into service the facilities that were authorized in the original certificate authorization issued on September 17, 2020 (Certificate Order).[1] The Certificate Order authorized the Louisiana XPress Project (Project) and required Columbia Gulf to complete construction of the Project facilities and made them available for service by September 17, 2022.

Columbia Gulf states that unexpected settlement issues arose at the Chicot and Shelburn Compressor Stations (CS) during the final phases of construction, resulting in a delay of the previously anticipated Project in-service date of February 1, 2022. Columbia Gulf explains that, it has completed remediation activities at the Chicot CS and subsequently placed the Chicot CS into service and commenced flowing partial incremental Project volumes on July 1, 2022. Columbia Gulf states that, Columbia Gulf is working at the Shelburn CS to complete remediation activities and expect to complete construction and have a full in-service date between September 20, 2022 and November 1, 2022.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Columbia Gulf's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for Natural Gas

[1] *Columbia Gulf Transmission, LLC,* 172 FERC ¶ 61,260 (2020).

Act facilities when such requests are contested before order issuance. For those extension requests that are contested,[2] the Commission will aim to issue an order acting on the request within 45 days.[3] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[4] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act.[5] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[6] The OEP Director, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and three copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on, August 10, 2022.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16415 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–22–000]

Commission Information Collection Activities (FERC–539) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–539 (Gas Pipeline Certificates: Import & Export Related Applications), which will be submitted to the Office of Management and Budget (OMB).

DATES: Comments on the collection of information are due September 30, 2022.

ADDRESSES: Send written comments on FERC–539 (IC22–22–000) to the Commission. You may submit copies of your comments by one of the following methods:

Electronic filing through *https://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only Addressed to:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (Including Courier) Delivery to:* Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–539 (Gas Pipeline Certificates: Import & Export Related Applications).

OMB Control No.: 1902–0062.

Type of Request: Three-year extension of the FERC–539 with no changes to the current reporting requirements.

Abstract: The purpose of FERC–539 is to implement information collections pursuant to Section 3 of the Natural Gas Act (NGA).[1] This statute provides, in part, that ''. . . no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order from the Commission authorizing it to do so.'' [2] This statute applies not only to natural gas imported and/or exported via pipeline but also to any import and/or export of liquefied natural gas via a liquefied natural gas terminal. The 1992 amendments to Section 3 of the NGA concern importation or exportation from/to a nation which has a free trade agreement with the United States, and requires that such importation or exportation: (1) Shall be deemed to be a ''first sale'', *i.e.,* not a sale for a resale, and (2) Shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.

Estimate of Annual Burden: [3] The Commission estimates the annual public reporting burden for the information collection as:

[2] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1) (2019).

[3] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[4] *Id.* at P 40.

[5] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[6] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[1] 15 U.S.C. 717–717w.

[2] 15 U.S.C. 717b.

[3] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. See 5 CFR 1320 for additional information on the definition of information collection burden.

FERC–539, GAS PIPELINE CERTIFICATES: IMPORT & EXPORT RELATED APPLICATIONS

Number of respondents	Number of responses per respondent	Total number of responses	Average burden hours & average cost[4] per response ($)	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1) = (6)
6	2	12	15 hours; $1,305.	180 hours; $28,800.	$2,610

Comments: Comments are invited on: (1) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16424 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–1062–000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: § 4(d) Rate Filing: PAL NRA Wells Fargo Commodities, LLC SP378905 to be effective 8/1/2022.

Filed Date: 7/25/22.

Accession Number: 20220725–5100.

Comment Date: 5 p.m. ET 8/8/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 26, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–16425 Filed 7–29–22; 8:45 am]

BILLING CODE 6717–01–P

[4] The Commission staff estimates that industry is similarly situated in terms of hourly cost (for wages plus benefits). Based on the Commission's FY (Fiscal Year) 2021 average cost (for wages plus benefits), $87.00/hour is used.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2020–0682; FRL–10090–01–ORD]

Notice of Public Comment Period on Additional Candidates Added to the Peer Reviewer Pool for the Biofuels and the Environment: Third Triennial Report to Congress

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is announcing a 15-day public comment period on two (2) additional peer review candidates for the external peer review of the Biofuels and the Environment: Third Triennial Report to Congress (RtC3). EPA previously invited public comment on an initial pool of twenty (20) candidates announced in a **Federal Register** Notice (FRN) published on May 9, 2022. After considering public comments and the balance and collective expertise of the reviewers, EPA asked ERG, the independent contractor organizing the peer review, to identify additional candidates to strengthen expertise gaps and allow a more balanced panel. EPA is seeking public comment on additional peer review candidates in order to strengthen underrepresented areas of expertise, specifically economics, water quality, and ecology disciplines. You may also comment on the initial twenty (20) candidates if you have not yet done so. If you already commented on those initial candidates in response to the May 9, 2022, FRN, you do not need to resubmit those comments. After considering all public comments on the initial pool of 20 candidates and the additional candidates announced in this FRN, ERG will select up to nine (9) peer reviewers. ERG will ensure the peer reviewers' combined expertise best spans the following disciplines: economics, engineering, agronomics, land use change, remote sensing, air quality, biogeochemistry, water quality, hydrology, conservation biology, limnology, and ecology. The peer review will be conducted under the framework of EPA's Scientific Integrity Policy (*https://www.epa.gov/sites/default/files/2014-02/documents/scientific_integrity_policy_2012.pdf*) and follow procedures established in EPA's Peer Review Handbook 4th Edition, 2015 (EPA/100/B–15/001).

DATES: The 15-day public comment period on the additional list of proposed peer review candidates begins August 1, 2022 and ends August 16, 2022. Comments must be received on or before August 16, 2022.

ADDRESSES: Please follow the instructions as provided in the section of this notice entitled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Questions concerning the process for forming the peer review panel should be directed to EPA's contractor, ERG, by email to *peerreview@erg.com* (subject line: RtC3 Peer Review). For information on the period of submission, contact the

ORD Docket at the EPA Headquarters Docket Center; phone: 202–566–1752; fax: 202–566–9744; or email: *ord.docket@epa.gov.* For technical information, contact Christopher Clark; phone: 202–564–4183; or email: *Clark.Christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Document

In 2007, Congress enacted the Energy Independence and Security Act (EISA) with the stated goals of ''mov[ing] the United States toward greater energy independence and security [and] to increase the production of clean renewable fuels.'' In accordance with these goals, EISA revised the Renewable Fuel Standard (RFS) Program, which was created under the 2005 Energy Policy Act and is administered by the EPA, to increase the volume of renewable fuel required to be blended into transportation fuel to 36 billion gallons per year by 2022. Section 204 of EISA directs the EPA, in consultation with the U.S. Departments of Agriculture and Energy, to assess and report triennially to Congress on the environmental and resource conservation impacts of the RFS Program.

The first report to Congress (RtC1) was completed in 2011 and provided an assessment of the environmental and resource conservation impacts associated with increased biofuel production and use (EPA/600/R–10/183F). The overarching conclusions of this first report were: (1) the environmental impacts of increased biofuel production and use were likely negative but limited in impact; (2) there was a potential for both positive and negative impacts in the future; and (3) EISA goals for biofuels production could be achieved with minimal environmental impacts if best practices were used and if technologies advanced to facilitate the use of second-generation biofuel feedstocks (corn stover, perennial grasses, woody biomass, algae, and waste).

The second report to Congress (RtC2) was completed in 2018 and reaffirmed the overarching conclusions of the RtC1 (EPA/600/R–18/195). The RtC2 noted that the biofuel production and use conditions that led to the conclusions of the RtC1 had not materially changed, and that the production of biofuels from cellulosic feedstocks anticipated by both the EISA and the RtC1 had not materialized. Noting observed increases in acreage for corn and soybean production in the period prior to, and following, implementation of the RFS2 Program, the RtC2 concluded that the environmental and resource conservation impacts associated with land use change were likely due, at least in part, to the RFS Program and associated production of biofuel feedstocks but that further research was needed.

This RtC3 builds on the previous two reports and provides an update on the impacts to date of the RFS Program on the environment. This report assesses air, water, and soil quality; ecosystem health and biodiversity; and other effects. This third report also includes new analyses not previously included in the first and second reports.

II. Information About This Peer Review

EPA's contractor, ERG, is considering a list of candidates from which to select the independent, external, peer review panel for the RtC3. On May 9, 2022, EPA announced through an FRN (87 FR 27634) that it was seeking public comment on a pool of twenty (20) candidates identified through a previous FRN seeking nomination of experts (87 FR 5479, February 1, 2022). Candidates combined expertise spanned the following disciplines: economics, engineering, agronomics, land use change, remote sensing, air quality, biogeochemistry, water quality, hydrology, conservation biology, limnology, and ecology. After considering public comment, and the balance and collective expertise of the reviewers, ERG identified two (2) additional candidates to strengthen expertise gaps and allow a more balanced panel. The updated List of Candidates with additional candidates in bold font has been posted to the docket at *https://www.regulations.gov* (EPA–HQ–ORD–2020–0682) and is included below.

After considering public comments received on the candidates submitted in response to this FRN, FRL–10090–01–ORD, and the previous FRN (87 FR 27634, May 9, 2022), ERG will select up to nine (9) peer reviewers from this pool in a manner consistent with EPA's Peer Review Handbook 4th Edition, 2015 (EPA/100/B–15/001) based on the following factors: (1) demonstrated expertise in the areas listed above through relevant peer-reviewed publications; (2) professional accomplishments and recognition by professional societies; (3) demonstrated ability to work constructively and effectively in a committee setting; (4) absence of conflicts of interest; (5) no appearance of a lack of impartiality; (6) willingness to commit adequate time for a thorough review of the draft report, including preparation of individual written comments that will be made publicly available; and (7) availability to participate virtually in a public two-day or three-day peer review meeting and to provide subsequent revised individual comments. ERG will independently conduct a conflict of interest (COI) screening of candidates to ensure that the selected experts have no COI in conducting this review. EPA will announce the final peer review panel, peer review meeting information, and public comment period on the RtC3 External Review Draft in a subsequent FRN. Comments on the peer review candidates must be submitted to the docket by August 16, 2022.

Revised Pool of Peer Reviewer Candidates (with New Candidates Listed in Bold Font)

1. Jacob N. Barney, Virginia Tech
2. Steven T. Berry, Yale University
3. Sarah C. Davis, Ohio University
4. **Harry de Gorter, Cornell University**
5. Bernard A. Engel, Purdue University
6. Jason D. Hill, University of Minnesota
7. S. Kent Hoekman, Desert Research Institute
8. Atul K. Jain, University of Illinois at Urbana-Champaign
9. Stephen R. Kaffka, University of California, Davis
10. Mary Kombolias, Agrafa Solutions LLC
11. Lyubov A. Kurkalova, North Carolina Agricultural and Technical State University
12. **Doug A. Landis, Michigan State University**
13. Tyler J. Lark, University of Wisconsin-Madison
14. Ruopi Li, Southern Illinois University, Carbondale
15. Chris Malins, Cerulogy Consulting, UK
16. Nathan Parker, Arizona State University
17. John M. Reilly, Massachusetts Institute of Technology
18. Timothy D. Searchinger, Princeton University
19. Aaron Smith, University of California, Davis
20. Yang Song, University of Arizona
21. Farzad Taheripour, Purdue University
22. Bin Yang, Washington State University, Tri-Cities

III. How To Submit Technical Comments to the Docket at *www.regulations.gov*

We encourage the public to submit comments to Docket ID No. [EPA–HQ–ORD–2020–0682] via web at *https://www.regulations.gov/* or via email at *ord.docket@epa.gov,* as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received at the EPA Docket Center, WJC West Building, Room 3334, 1301

Constitution Avenue NW, Washington, DC, from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal Holidays. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

Instructions: Direct your comments to Docket ID No. [EPA–HQ–ORD–2020–0682]. Please ensure that your comments are submitted within the specified comment period. It is EPA's policy to include all materials it receives in the public docket without change and to make the materials available online at *www.regulations.gov,* including any personal information provided, unless materials include information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the materials that are placed in the public docket and made available on the internet. If you submit electronic materials, EPA recommends that you include your name and other contact information in the body of your materials and with any disk or CD–ROM you submit. If EPA cannot read your materials due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider the materials you submit. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EPA's Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the ORD Docket in EPA's Headquarters Docket Center.

Dated: July 26, 2022.

Wayne Cascio,

Director, Center for Public Health and Environmental Assessment, Office of Research and Development.

[FR Doc. 2022–16369 Filed 7–29–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0184; Docket No. 2022–0053; Sequence No. 15]

Submission for OMB Review; Contractors Performing Private Security Functions Outside the United States

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning contractors performing private security functions outside the United States.

DATES: Submit comments on or before August 31, 2022.]

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

Additionally, submit a copy to GSA through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

Instructions: All items submitted must cite OMB Control No. 9000–0184, Contractors Performing Private Security Functions Outside the United States. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Moore, Procurement Analyst, at telephone 571–300–5917, or *carrie.moore@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0184, Contractors Performing Private Security Functions Outside the United States

B. Needs and Uses

This justification supports an extension of the expiration date of OMB Control No. 9000–0184. This clearance covers the information that contractors must submit to comply with FAR clause 52.225–26, Contractors Performing Private Security Functions Outside the United States. When contract performance is required outside the United States in an area of combat operations or significant military operations, this clause requires contractors to ensure employees performing private security functions under the contract comply with 32 CFR part 159, and any orders, directives, or instructions that are identified in the contract for: (1) Registering, processing, accounting for, managing, overseeing, and keeping appropriate records of personnel performing private security functions; (2) Requesting authorization of and accounting for weapons to be carried by or available to personnel performing private security functions; (3) Registering and identifying armored vehicles, helicopters, and other military vehicles operated by employees performing private security functions; and (4) Reporting incidents in which personnel performing private security functions: discharge a weapon; are attacked, killed, or injured; kill or injure a person or destroy property as a result of conduct by contractor personnel; have a weapon discharged against them or believe a weapon was so discharged; or employ active, non-lethal countermeasures in response to a perceived immediate threat.

The information provided in accordance with FAR clause 52.225–26 is used to ensure accountability, visibility, force protection, medical support, personnel recovery, and other related support can be accurately forecasted and provided to deployed contractors, as required.

C. Annual Burden

Respondents: 28.
Total Annual Responses: 140.
Total Burden Hours: 70.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 87 FR 29315, on May 13, 2022. No comments were received. Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0184, Contractors Performing Private Security Functions Outside the United States.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–16402 Filed 7–29–22; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–2474]

Agency Information Collection Activities; Proposed Collection; Comment Request; Designated New Animal Drugs for Minor Use and Minor Species

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting associated with regulations specifying the criteria and procedures for minor uses and minor species (MUMS) new animal drug designation requests.

DATES: Either electronic or written comments on the collection of information must be submitted by September 30, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 30, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–2474 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Designated New Animal Drugs for Minor Use and Minor Species.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Rachel Showalter, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 240–994–7399, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests

or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Reporting Associated With Designated New Animal Drugs for Minor Use and Minor Species—21 CFR Part 516

OMB Control Number 0910–0605—Extension

The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes FDA to implement regulatory procedures intended to make more medications legally available to veterinarians and animal owners for the treatment of minor animal species as well as uncommon diseases in major animal species (21 U.S.C. 360ccc). This statutory authority provides incentives designed to help pharmaceutical companies overcome the financial burdens they face in providing limited-demand animal drugs. These incentives are only available to sponsors who have had their drugs designated by FDA under section 573 of the MUMS Act. Minor use drugs are drugs for use in major species (cattle, horses, swine, chickens, turkeys, dogs, and cats) that are needed for diseases that occur in only a small number of animals either because they occur infrequently or in limited geographic areas. Minor species are all animals other than the major species, for example, zoo animals, ornamental fish, parrots, ferrets, and guinea pigs. Some animals of agricultural importance are also minor species. These include animals such as sheep, goats, catfish, and honeybees.

MUMS-drug designation is completely optional for drug sponsors. The associated reporting only applies to those sponsors who request and are subsequently granted MUMS-drug designation status. Our regulations in 21 CFR part 516 specify the criteria and procedures for requesting MUMS-drug designation as well as the annual reporting requirements for MUMS designees. Sponsors use FDA's ''eSubmitter'' system to fill out a series of system generated screens to submit their request and annual report electronically. To access the ''eSubmitter'' system, sponsors will use a previously established account. Additional information about this system is available on our website at: *https://www.fda.gov/industry/fda-esubmitter.*

Description of Respondents: The respondents to this information collection are pharmaceutical companies that sponsor new animal drugs.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
516.20; content and format of MUMS-drug designation request	15	5	75	16	1,200
516.26; requirements for amending MUMS-drug designation	3	1	3	2	6
516.27; change in sponsorship of MUMS-drug designation	1	1	1	1	1
516.29; termination of MUMS-drug designation	2	1	2	1	2
516.30; requirements of annual reports from sponsor(s) of MUMS-designated drugs	15	5	75	2	150
516.36; consequences for insufficient quantities of MUMS-designated drugs	1	1	1	3	3
Total					1,362

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: July 19, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–16387 Filed 7–29–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–1528]

Lupin Pharmaceuticals, Inc., et al.; Withdrawal of Approval of Seven Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of seven abbreviated new drug applications (ANDAs) from multiple applicants. The applicants notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of August 31, 2022.

FOR FURTHER INFORMATION CONTACT: Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676, Silver Spring, MD 20993–0002, 240–402–6980, *Martha.Nguyen@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The applicants listed in the table have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process described in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

Application No.	Drug	Applicant
ANDA 065125	Ceftriaxone for Injection, Equivalent to (EQ) 250 milligrams (mg) base/vial; EQ 500 mg base/vial; EQ 1 gram (g) base/vial; EQ 2 g base/vial.	Lupin Pharmaceuticals, Inc., 111 South Calvert St., Harborplace Tower, 21st Floor, Baltimore, MD 21202.
ANDA 078188	Irinotecan Hydrochloride Injection, 40 mg/2 milliliters (mL) (20 mg/mL) and 100 mg/5 mL (20 mg/mL).	Fresenius Kabi USA, LLC, Three Corporate Dr., Lake Zurich, IL 60047.
ANDA 090088	Anastrozole Tablets, 1 mg	Do.
ANDA 206002	Bosentan Tablets, 62.5 mg and 125 mg	Alvogen Pine Brook, LLC, 44 Whippany Rd., Suite 300, Morristown, NJ 07960.
ANDA 212185	Chlorzoxazone Tablets, 375 mg and 750 mg	Glenmark Pharmaceuticals Inc., USA, 750 Corporate Dr., Mahwah, NJ 07430.
ANDA 212186	Amphetamine Sulfate Tablets, 5 mg and 10 mg	Do.
ANDA 213132	Arformoterol Tartrate Inhalation Solution, EQ 0.015 mg base/2 mL.	Do.

Therefore, approval of the applications listed in the table, and all amendments and supplements thereto, is hereby withdrawn as of August 31, 2022. Approval of each entire application is withdrawn, including any strengths and dosage forms inadvertently missing from the table. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in the table that are in inventory on August 31, 2022 may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: July 25, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–16383 Filed 7–29–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2020–E–1588; FDA–2020–E–1591; and FDA–2020–E–1592]

Determination of Regulatory Review Period for Purposes of Patent Extension; REBLOZYL

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) has determined the regulatory review period for REBLOZYL and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of applications to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human biological product.

DATES: Anyone with knowledge that any of the dates as published (see **SUPPLEMENTARY INFORMATION**) are incorrect may submit either electronic or written comments and ask for a redetermination by September 30, 2022. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by January 30, 2023. See ''Petitions'' in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 30, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of September 30, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket Nos. FDA–2020–E–1588; FDA–2020–E–1591; and FDA–2020–E–1592 for ''Determination of Regulatory Review Period for Purposes of Patent Extension; REBLOZYL.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with § 10.20 (21 CFR 10.20) and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug or biologic product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological product becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human biologic product, REBLOZYL (luspatercept-aamt) indicated for the treatment of anemia in adult patients with beta thalassemia who require regular red blood cell transfusions. Subsequent to this approval, the USPTO received a patent term restoration application for REBLOZYL (U.S. Patent No. 8,058,229; 8,343,933; 8,361,957) from Acceleron Pharma Inc. and the USPTO requested FDA's assistance in determining the patents' eligibility for patent term restoration. In a letter dated July 14, 2020, FDA advised the USPTO that this human biological product had undergone a regulatory review period and that the approval of REBLOZYL represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for REBLOZYL is 3,041 days. Of this time, 2,822 days occurred during the testing phase of the regulatory review period, while 219 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* July 14, 2011. FDA has verified the applicant's claim that the date the investigational biologics license application became effective was on July 14, 2011.

2. *The date the application was initially submitted with respect to the human biologic product under section 351 of the Public Health Service Act (42 U.S.C. 262):* April 4, 2019. The applicant claims April 5, 2019, as the date the biologics license application (BLA) for REBLOZYL (BLA 761136) was initially submitted. However, FDA records indicate that BLA 761136 was submitted on April 4, 2019.

3. *The date the application was approved:* November 8, 2019. FDA has verified the applicant's claim that BLA 761136 was approved on November 8, 2019.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its applications for patent extension, this applicant seeks 1,347 days, 1,361 days, or 1,548 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and, under 21 CFR 60.24, ask for a redetermination (see **DATES**). Furthermore, as specified in § 60.30 (21 CFR 60.30), any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must comply with all the requirements of § 60.30, including but not limited to: must be timely (see **DATES**), must be filed in accordance with § 10.20, must contain sufficient facts to merit an FDA investigation, and must certify that a true and complete copy of the petition has been served upon the patent

applicant. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *https://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: July 25, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–16385 Filed 7–29–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0429]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Meetings With Industry and Investigators on the Research and Development of Tobacco Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by August 31, 2022.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0731. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Meetings With Industry and Investigators on the Research and Development of Tobacco Products

OMB Control Number 0910–0731—Extension

The Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) offers tobacco product manufacturers several pathways to obtain an order from FDA to authorize the marketing of a new tobacco product before it may be introduced or delivered into interstate commerce. To provide assistance with these pathways to market products, FDA will meet with tobacco product manufacturers, importers, researchers, and investigators (or their representatives) when appropriate as described in ''Guidance on Meetings with Industry and Investigators on the Research and Development of Tobacco Products,'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/meetings-industry-and-investigators-research-and-development-tobacco-products*). This guidance is intended to assist persons who seek meetings with FDA relating to their research to inform the regulation of tobacco products, or to support the development or marketing of tobacco products. The original guidance issued in 2012 was revised for updating and clarity in July 2016.

In the guidance, the Agency discusses, among other things:

- What information FDA recommends persons include in a meeting request;
- How and when to submit a request; and
- What information FDA recommends persons submit prior to a meeting.

This guidance describes two collections of information: (1) the submission of a meeting request containing certain information and (2) the submission of an information package in advance of the meeting. The purpose of this proposed information collection is to allow FDA to conduct meetings with tobacco manufacturers, importers, researchers, and investigators in an effective and efficient manner. FDA issued this guidance and the revisions consistent with FDA's good guidance practices regulations (21 CFR 10.115).

Meeting Requests: The guidance sets forth FDA's recommendations for materials to be included in a request for a meeting with FDA to discuss the research and development of tobacco products. In the guidance, FDA recommends that the following information be included in the meeting request:

1. Product name;
2. FDA-assigned Submission Tracking Number(s) of prior submissions (*e.g.,* premarket applications, meeting requests) for the product and relevant product version(s) (if applicable);
3. Product category (*e.g.,* cigarettes, smokeless tobacco) (if applicable);
4. Product use (indicate for consumer use or for further manufacturing);
5. Contact information for the authorized point of contact for the company requesting the meeting;
6. The topic of the meeting being requested (*e.g.,* a new tobacco product application, an application for permission to market a modified risk tobacco product, or investigational use of a new tobacco product);
7. A brief statement of the purpose of the meeting, which could include a discussion of the types of studies or data to be discussed at the meeting, the general nature of the primary questions to be asked, and where the meeting fits in the overall product development plans;
8. A preliminary list of the specific objectives/outcomes expected from the meeting;
9. A preliminary proposed agenda, including an estimate of the time needed and a designated speaker for each agenda item;
10. A preliminary list of specific critical questions, grouped by discipline (*e.g.,* chemistry, clinical, nonclinical);
11. A list of all individuals who will attend the meeting on behalf of the tobacco product manufacturer, importer, researcher, or investigator, including titles and responsibilities;
12. The date on which the meeting information package will be received by FDA; and
13. Suggested format of the meeting (*e.g.,* conference call, in-person meeting at FDA offices, video conference, or written response) and suggested dates and times for the meeting. Meetings are usually scheduled for 1 hour. FDA is proposing that a meeting request include the FDA-assigned submission tracking numbers of relevant product version(s), if applicable, to allow for FDA to reference such information to better assess and respond to the issues and questions raised in the meeting request.

This information will be used by the Agency to: (1) determine the utility of the meeting, (2) identify Agency staff necessary to discuss proposed agenda items, and (3) schedule the meeting.

Meeting Information Packages: An individual submitting a meeting information package to FDA in advance of a meeting should provide summary information relevant to the product and supplementary information pertaining to any issue raised by the individual or FDA to be discussed at the meeting. As stated in the guidance, FDA recommends that meeting information packages generally include updates of information that was submitted with the meeting request and, as applicable:

1. Product composition and design data summary;
2. Manufacturing and process control data summary;
3. Nonclinical data summary;
4. Clinical data summary;
5. Behavioral and product use data summary;
6. User and nonuser perception data summary; and
7. Investigational plans for studies and surveillance of the tobacco product, including a summary of proposed study protocols containing the following information (as applicable):

a. Study objective(s);
b. Study hypotheses;
c. Study design;
d. Study population (inclusion/exclusion criteria, comparison group(s));
e. Human subject protection information, including institutional review board information;
f. Primary and secondary endpoints (definition and success criteria);
g. Sample size calculation;
h. Data collection procedures;
i. Duration of followup and baseline and followup assessments; and
j. Data analysis plan(s).

The purpose of the information package is to provide Agency staff the opportunity to adequately prepare for the meeting, including the review of relevant data concerning the product. In the Agency's experience, reviewing such information is critical to achieving a productive meeting. If the information package was previously submitted in the meeting request, it should be revised, as applicable, so that the information reflects the most current and accurate information available.

In the **Federal Register** of February 2, 2022 (87 FR 5824), FDA published a 60-day notice requesting public comment on the proposed collection of information. One comment was received that was not PRA related.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Meeting Requests					
Combining and sending meeting request letters for manufacturers, importers, and researchers	65	1	65	10	650
Meeting Information Packages					
Combining and submitting meeting information packages for manufacturers, importers, and researchers	65	1	65	18	1,170
Total					1,820

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

On March 15, 2022, after publication of the 60-day notice, President Biden signed H.R. 2471—the Consolidated Appropriations Act, 2022. As a result, the Federal Food, Drug, and Cosmetic Act now includes specific language that makes clear FDA has the authority to regulate tobacco products containing nicotine from any source. Our estimate for this collection now includes meeting requests from manufacturers of products containing non-tobacco nicotine. We based our updated estimate on the number of bundled premarket tobacco product applications we might receive (15) assuming ⅓ of these submissions (5) will submit a meeting request. As such, we have increased our estimated respondents for meetings from 60 to 65. FDA's estimate of the number of respondents for meeting requests in table 1 is based on the number of meeting requests received and projected over the next 3 years. FDA now estimates that 65 preapplication meetings will be requested.

The hours per response for combining and sending meeting request letters are estimated at 10 hours each, and the total burden hours for meeting requests are expected to be 650 hours. Based on FDA's experience, the Agency expects it will take respondents this amount of time to prepare, gather, copy, and submit brief statements about the product and a description of the purpose and details of the meeting.

FDA estimates that 65 respondents will compile meeting information packages and submit to FDA at 18 hours per response. Based on FDA's experience, the Agency expects that it will take respondents, collectively, 1,170 hours to gather, copy, and submit brief statements about the product, a description of the details of the anticipated meeting, and data and information, including identifying prior FDA submissions for the product or relevant versions of the product, that generally would already have been generated for the planned research and/or product development.

The total number of burden hours for this collection of information is estimated to be 1,820 hours (650 hours to prepare and submit meeting requests and 1,170 hours to prepare and submit information packages). Our estimated burden for the information collection reflects an overall decrease of 504 hours. We attribute this adjustment to a decrease in the number of submissions we received over the last few years and our projections for the next 3 years.

Dated: July 21, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–16388 Filed 7–29–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; System of Records

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 as amended, HHS is publishing notice of modifications to system of records 09–15–0055, ''Organ Procurement and Transplantation Network (OPTN)/ Scientific Registry of Transplant Recipients (SRTR) Data System,'' maintained by HRSA, Health Systems Bureau.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is applicable August 1, 2022, subject to a 30-day period in which to comment on the new routine uses, described below. Please submit any comments by August 31, 2022.''

ADDRESSES: The public should address written comments on the system of records to Christopher McLaughlin, email address *donation@hrsa.gov.*

FOR FURTHER INFORMATION CONTACT: General questions about the system of records may be submitted to Christopher McLaughlin, email *donation@hrsa.gov,* telephone (301) 443–7577. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Explanation of Changes

The revised system of records notice (SORN) for System No. 09–15–0055 includes these substantive changes:

1. Updates the System Location and System Manager sections to reflect the responsible HRSA Bureau's current name (''Healthcare'' Systems Bureau is now ''Health'' Systems Bureau) and to reflect a change in the contractor for the Scientific Registry of Transplant Recipients (SRTR).

2. Updates the Authorities section, which previously cited 42 U.S.C. 274 as authorizing maintenance of network information, 42 U.S.C. 274a as authorizing maintenance of registry information, and implementing regulations at 42 CFR part 121, to now also indicate which specific subsections of 42 U.S.C. 274 are applicable and to add 42 U.S.C. 273a, which authorizes maintenance of information needed to evaluate long-term effects associated with living donations.

3. Revises the Purpose(s) section to expand the purpose description at (2) to include ''. . . OPTN bylaws and policies, including risks to the health of patients or to the public safety'' in place of ''. . . OPTN requirements'' and to add two new purpose descriptions at (6) and (7).

4. Expands the Categories of Individuals section to include four new categories at 4 through 7, to remove ''deceased'' persons from whom organs have been obtained from category 1, and to include a note stating that all categories are limited to living individuals (because only records about living individuals are governed by the Privacy Act and pertinent to the SORN).

5. Revises the Categories of Records section to include an introductory statement that the records consist of all information needed for organ matching and placement and follow-up; to clarify that donor registration information is collected about prospective donors whether or not they become donors; to add ''address'' and change ''gender'' to ''sex at birth'' in the list of data elements; and to remove ''living'' and ''deceased'' from the descriptions.

6. Updates the Record Source Categories section to include individuals' health care providers and CMS and other organizations as additional sources of information in the records.

7. Adds three new routine uses and revises three existing routine uses authorizing disclosures to non-HHS parties:

○ New routine use 2 will allow disclosure of records to the OPTN Board of Directors, Committees, and Review Boards, in the event they need access to identifiable information about an individual for their deliberations, to do the work required of them.

○ Routine use 3 (formerly 2), which authorizes disclosures to transplant centers, histocompatibility laboratories, organ procurement organizations, and various other listed entities, has been revised to replace ''organ donors'' with ''living individuals who are potential deceased or potential living organ donors;'' to update the list of disclosure recipients to omit ''the Transplant Transmission Sentinel Network'' and shorten ''NCI contractors, State cancer registries and other State health agencies'' to ''State registries and State health agencies;'' and to remove redundant wording that repeats part of the definition of a routine use (*i.e.,* ''provided that such disclosure is compatible with the purpose for which the records were collected'').

○ Routine use 4 (formerly 3), which authorizes disclosures to the Department of Justice (DOJ) in the event of litigation against HHS or against an HHS employee or the United States affecting HHS, has been revised to add ''a court or other tribunal'' as disclosure recipients.

○ New routine use 5 will allow disclosure of records to DOJ or to a court or other tribunal in the event of pending or potential litigation involving HHS or the United States as a plaintiff, intervenor, or amicus; the OPTN contractor or SRTR contractor as a defendant; or the OPTN.

○ Routine use 6 (formerly 4), which authorizes disclosures to congressional offices to facilitate responses to constituent requests, has been revised to change ''verified inquiry'' to ''written inquiry.''

○ New routine use 10 will allow disclosure of records to health care professionals providing clinical treatment to subject individuals, subject to a list of conditions.

8. The Storage section continues to state that records are maintained electronically and in hard copy files, but now omits ''file folders'' (as redundant of ''hard copy files'') and omits ''magnetic tapes'' and ''disc packs'' (as obsolete forms of electronic storage media).

9. The Retrieval section has been revised to omit ''date of birth,'' which, although used for retrieval, is not a personal identifier.

10. The Retention section has been corrected to state that the records are currently unscheduled and retained indefinitely pending scheduling with the National Archives and Records Administration (NARA) (instead of stating that records are retained for no more than 25 years beyond the known death of the subject individual), and to remove shredding and degaussing descriptions, because secure destruction methods are addressed in the Safeguards section.

11. Minor changes have been made to the Safeguards section, *e.g.,* to change ''HRSA Project Officer'' to ''HRSA Contracting Officer's Representative,'' to change ''automated and nonautomated documents'' to ''electronic and hard-copy files,'' to remove references to magnetic tape and disk packs, and to change ''records storage area'' to ''files storage area.''

12. The Records Access Procedures section has been revised to omit references to provisions in the HHS Privacy Act regulations which are legally deficient. The provisions require a parent or legal guardian of a subject individual seeking access to medical records about the individual to designate a health professional to whom

HHS can release the requested records. The provisions fail to ensure that records released by HHS to the health professional will be fully disclosed by the health professional to the requesting parent or guardian, and they fail to ensure provision of administrative appeal rights to the requesting parent or guardian.

Diana Espinosa,
Deputy Administrator.

System Name and Number

Organ Procurement and Transplantation Network (OPTN)/SRTR Data System, 09–15–0055.

SECURITY CLASSIFICATION

Unclassified.

SYSTEM LOCATION

The address of the agency component responsible for the system of records is:

- HRSA Division of Transplantation, Health Systems Bureau, 5600 Fishers Lane Rockville, Maryland 20857.

Service provider addresses:

- OPTN Contractor: United Network for Organ Sharing (UNOS), 700 N 4th Street, Richmond, VA 23219.
- SRTR Contractor: Chronic Disease Research Group of the Hennepin Healthcare Research Institute, 701 Park Avenue, Suite S4–100, Minneapolis, MN 55415.

SYSTEM MANAGER(S)

The system managers are as follows:

- For OPTN records: United Network for Organ Sharing (UNOS), email address *privacy@unos.org,* telephone (888) 894–6361.
- For SRTR records: Chronic Disease Research Group (CDRG), Hennepin Healthcare Research Institute, email address *support@srtr.org,* telephone (877) 970–7787.

Contact information for HRSA Division of Transplantation: Division of Transplantation, Health Systems Bureau, HRSA, email address *donation@hrsa.gov,* telephone (301) 443–7577.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

42 U.S.C. 274 requires that the HHS Secretary, by contract, provide for the establishment and operation of an organ procurement and transplantation network, and 42 U.S.C. 274a requires that the Secretary, by grant or contract, develop and maintain a scientific registry of the recipients of organ transplants. 42 U.S.C. 274(b)(2)(H), 274(b)(2)(I), and 42 CFR part 121 authorize OPTN's and SRTR's collection of the information included in this system of records. In addition, 42 U.S.C. 273a authorizes HHS to establish and maintain mechanisms to evaluate the long-term effects associated with living donations. Federal regulations at 42 CFR 121.11 also authorize the OPTN and SRTR to collect information concerning living organ donors and prospective living organ donors as the Secretary deems appropriate.

PURPOSE(S) OF THE SYSTEM

Records are used by the Department, the OPTN, the OPTN contractor, and the SRTR contractor to: (1) facilitate organ placement and match donor organs with recipients; (2) monitor compliance of member organizations with federal laws and regulations and with OPTN bylaws and policies, including risks to the health of patients or to the public safety; (3) review and report periodically to the public on the status of organ donation and transplantation in the United States; (4) provide data to researchers and government agencies to study the scientific and clinical status of organ donation and transplantation; (5) perform transplantation-related public health surveillance including possible transmission of donor disease; (6) provide data on individuals with records in the system to HHS' Centers for Medicare & Medicaid Services (CMS) and to contractors of CMS business associates, with appropriate limitations, data protections, and safeguards including execution of a written agreement attesting to the data recipient's understanding of, and willingness to abide by these provisions, for purposes including to monitor the individual's status in the OPTN system and to inform the individual's clinical care in order to assist in registering candidates on the waitlist and in facilitating organ placement and matching donor organs with recipients; and (7) provide data on individuals with records in the system to health care professionals providing clinical care to those individuals, for purposes including to monitor the individual's status in the OPTN system and to inform the individual's clinical care in order to assist in registering candidates on the waitlist and in facilitating organ placement and matching donor organs with recipients.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM

Records pertain to the following categories of individuals (note that all categories are limited to living individuals):

1. Individuals from whom organs have been obtained for transplantation.
2. Individuals who are candidates for receiving organ transplantation.
3. Individuals who have been recipients of transplanted organs.
4. Individuals who are potential deceased organ donors.
5. Individuals who are potential living organ donors or individuals who intend to become living organ donors (even if the donation does not occur).
6. Individuals who donate organs for transplantation.
7. Individuals being evaluated for transplant receipt.

CATEGORIES OF RECORDS IN THE SYSTEM

The records consist of information about potential donors and transplant candidates required for organ matching and placement and follow-up. Categories of records include donor registration, transplant candidate registration, transplant recipient registration, histocompatibility, transplant recipient follow-up, donor follow-up, registration of prospective organ donors who did not become donors, forms, and other non-registry operational information. Data elements include: name, Social Security number, address, identifiers assigned by OPTN and SRTR contractors, hospital and hospital provider number, State and zip code of residence, citizenship, race/ethnicity, sex at birth, date and time of organ recovery, and transplantation, name of transplant center, histocompatibility information, donor medical information, recipient and donor medical information before and after transplantation, immunosuppressive medication, health care coverage, employment, and education level.

RECORD SOURCE CATEGORIES

Individuals' records are provided to the OPTN contractor and SRTR contractor by organ procurement organizations, histocompatibility laboratories, organ transplant centers, and health care providers which obtain the information directly from individuals or their representatives. Records may also be supplemented with information from other sources of data, such as CMS and other organizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES

In addition to other disclosures authorized directly in the Privacy Act at 5 U.S.C. 552a(b)(1) and (2) and (b)(4) through (11), records about an individual may be disclosed from this system of records without the individual's prior written consent, to the following non-HHS parties for the following purposes:

1. HRSA may disclose records to Departmental contractors and/or their

subcontractors who have been engaged by the Department to assist in accomplishment of a Departmental function relating to the purposes for this system of records and who require access to the records in order to assist the Department.

2. HRSA, independently and through its contractor(s), may disclose records regarding potential deceased organ donors (who are still living), living and potential living organ donors, organ transplant candidates, and organ transplant recipients, to members of the OPTN Board of Directors, OPTN Committees, and OPTN Review Boards. Such disclosures will be shared only on a need to know basis in order for members of the OPTN Board of Directors, Committees, and Review Boards to do the work required of them for the operation of the OPTN relating to the purposes of this system of records, including matching donor organs with recipients, monitoring compliance of member organizations with Federal laws and regulations and OPTN bylaws and policies and for risks to the health of patients or for the public safety and transplantation-related public health surveillance. Generally, such information is not shared in a patient-identified or identifiable manner.

3. HRSA, independently and through its contractor(s), may disclose records regarding living individuals who are potential deceased or potential living donors, potential organ transplant candidates, and organ transplant recipients, to transplant centers, histocompatibility laboratories, organ procurement organizations, and other public health agencies such as Surveillance Epidemiology and End Results Program registries, State registries, and State health agencies, for purposes including: matching donor organs with recipients, monitoring compliance of member organizations with federal laws and regulations and OPTN requirements, reviewing and reporting periodically to the public on the status of organ donation and transplantation in the United States, and transplantation-related public health surveillance. These records consist of Social Security numbers, other patient identification information, and pertinent medical information.

4. HRSA may disclose records to the Department of Justice (DOJ) or to a court or other tribunal in litigation involving, as a defendant, (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to affect directly the operation of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the DOJ has agreed to represent such employee, for example, in defending a claim against the Public Health Service in connection with such individual, for the purpose of enabling DOJ to present an effective defense.

5. HRSA may disclose records to DOJ or to a court or other tribunal in the event of pending or potential litigation involving the Department or the United States as a plaintiff, intervenor, or amicus, or involving the contractor for the OPTN or the SRTR as a defendant in connection with its role as a contractor for the OPTN or the SRTR, or involving the OPTN.

6. HRSA may disclose records to a congressional office from the record of an individual in response to a written inquiry from the congressional office made at the written request of that individual.

7. A record may be disclosed for a research purpose, when the Department, independently or through its contractor(s):

a. has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. has determined that a bona fide research/analysis purpose exists;

c. has required the data recipient to: (1) establish strict limitations concerning the receipt and use of patient-identified or center-identified data; (2) establish reasonable administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent the unauthorized use or disclosure of the record; (3) remove, destroy, or return the information that identifies the individual or center at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the data recipient has presented adequate justification of a research or health nature for retaining such information; and (4) make no further use or disclosure of the record except as authorized by HRSA or its contractor(s) or when required by law;

d. has determined that other applicable safeguards or protocols will be followed; and

e. has secured a written statement attesting to the data recipient's understanding of, and willingness to abide by, these provisions.

8. Records may be disclosed to appropriate agencies, entities, and persons when (1) HHS suspects or has confirmed that there has been a breach of the system of records, (2) HHS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HHS (including its information systems, programs, and operations), the federal government, or national security, and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with HHS' efforts to respond to the suspected or confirmed breach or to prevent, minimize or remedy such harm.

9. Records may be disclosed to another federal agency or federal entity, when HHS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the federal government, or national security, resulting from a suspected or confirmed breach.

10. A record may be disclosed to physicians or other health care professionals providing clinical treatment to such individuals, for clinical purposes, when the Department, independently or through its contractor(s):

a. has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. has required the data recipient to: (1) establish strict limitations concerning the receipt and use of patient-identified or center-identified data; (2) establish reasonable administrative, technical, and physical safeguards to protect the confidentiality of the data and to prevent the unauthorized use or disclosure of the record; (3) remove, destroy, or return the information that identifies the individual or center at the earliest time at which removal or destruction can be accomplished consistent with the clinical purpose of the project, unless the data recipient has presented adequate justification of a research or health nature for retaining such information; (4) make no further use or disclosure of the record except as authorized by HRSA or its contractor(s) or when required by law; and (5) require any business associates of the data recipient to which the data recipient is authorized to disclose the record and does disclose the record, whether in original or derivative form, and to prohibit such a business associate from

making any further use or disclosure of the record except as authorized by HRSA or its contractor(s) or when required by law; and

c. has secured a written statement from the data recipient attesting to the data recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS

Records are maintained electronically and in hard-copy files.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS

Records in the system are retrieved by more than one type of personal identifier, including name and social security number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS

The records are currently unscheduled and retained indefinitely pending completion of a disposition schedule approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS

a. *Authorized users:* Access is limited to authorized HRSA and contract personnel responsible for administering the program. Authorized personnel include the System Manager and HRSA Contracting Officer's Representative, and the HRSA Automated Information System (AIS) Systems Security Officer; and the program managers/program specialists who have responsibilities for implementing the program. Both HRSA and its contractor(s) are required to maintain current lists of authorized users.

b. *Physical safeguards:* Computer equipment, electronic files, and hard-copy files are stored in areas where fire and life safety codes are strictly enforced. All electronic and hard-copy files are protected on a 24-hour basis. Security guards perform random checks on the physical security of the files storage area. The OPTN and SRTR contractors are required to maintain off-site a complete copy of the system and all necessary files to run the computer organ donor-recipient match and update software.

c. *Procedural safeguards:* A password is required to access the terminal, and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office. All authorized users must sign a nondisclosure statement. Access to records is limited to those staff members trained in accordance with the Privacy Act and Automated Data Processing (ADP) security procedures. The contractors are required to assure that the confidentiality safeguards of these records will be employed and that it complies with all provisions of the Privacy Act. All individuals who have access to these records must have the appropriate ADP security clearances. Privacy Act and ADP system security requirements are included in the contracts. The HRSA Contracting Officer's Representatives and the System Manager(s) oversee compliance with these requirements. The HRSA authorized users make visits to the contractors' facilities to assure security and Privacy Act compliance. The contractors are required to adhere to a HRSA approved system security plan.

RECORD ACCESS PROCEDURES

Individuals may request access to records about them in this system of records by submitting a written access request to the OPTN or SRTR contractor identified in the ''System Manager(s)'' section of this SORN at the email address provided in that section. The request must contain the individual's full name, address, date of birth, and signature; the name of the applicable transplant center; and a reasonable description of the records sought. To verify the requester's identity, the signature must be notarized or the request must include the requester's written certification that the requester is the individual who the requester claims to be and that the requester understands that the knowing and willful request for or acquisition of a record pertaining to an individual under false pretenses is a criminal offense subject to a fine of up to $5,000. The individual may also request an accounting of disclosures that have been made of the records, if any.

A parent or guardian who requests access to records about a minor or an individual with diminished capacity must verify his or her relationship to the minor or incompetent individual as well as his/her own identity.

CONTESTING RECORD PROCEDURES

Individuals may seek to amend a record about them in this system of records by submitting a written amendment request to the OPTN contractor or SRTR contractor identified in the ''System Manager(s)'' section of this SORN at the email address provided in that section, with a copy to the HRSA Division of Transplantation at the email address indicated, containing the same information required for an access request. The request must include verification of the requester's identity in the same manner required for an access request and must reasonably identify the relevant record, specify the information being contested and the corrective action sought, and include reasons for requesting the correction, along with supporting documentation, to show how the record is inaccurate, incomplete, untimely, or irrelevant.

NOTIFICATION PROCEDURES

Individuals who wish to know if this system of records contains a record about them must submit a written notification request to the OPTN or SRTR contractor identified in the ''System Manager(s)'' section of this SORN, at the email address provided in that section. The request must contain the same information required for an access request and must include verification of the requester's identity in the same manner required for an access request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM

None.

HISTORY

74 FR 57184 (Nov. 4, 2009), 83 FR 6591 (Feb. 14, 2018).

[FR Doc. 2022–16344 Filed 7–29–22; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Nominations for Appointment to the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) is soliciting nominations of individuals who are interested in being considered a voting member or non-voting liaison member for appointment to the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council). Nominations from qualified individuals who wish to be considered for appointment to either of these member categories of the Advisory Council are currently being accepted.

DATES: Nominations must be received no later than 12:00 a.m. ET on September 19th, 2022.

ADDRESSES: Information on how to submit a nomination is on the Advisory

Council website, *https://www.hhs.gov/ash/advisory-committees/paccarb/index.html.*

FOR FURTHER INFORMATION CONTACT: Jomana Musmar, MS, Ph.D., Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Room 715H, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, DC 20201. Phone: (202) 746–1512; email: *CARB@hhs.gov.* The Advisory Council charter may be accessed online at *https://www.hhs.gov/ash/advisory-committees/paccarb/about-paccarb/charter/index.html.* The charter includes detailed information about the Advisory Council's purpose, function, and structure.

SUPPLEMENTARY INFORMATION: The Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council), established by Executive Order 13676, is continued by Section 505 of Public Law 116–22, the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (PAHPAIA). Activities and duties of the Advisory Council are governed by the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of federal advisory committees.

The Advisory Council shall provide information and recommendations to the Secretary of Health and Human Services (Secretary) regarding programs and policies intended to reduce or combat antibiotic-resistant bacteria that may present a public health threat and improve capabilities to prevent, diagnose, mitigate, or treat such resistance. The Advisory Council shall function solely for advisory purposes.

Such advice, information, and recommendations may be related to improving: the effectiveness of antibiotics; research and advance research on, and the development of, improved and innovative methods for combating or reducing antibiotic resistance, including new treatments, rapid point-of-care diagnostics, alternatives to antibiotics, including alternatives to animal antibiotics, and antimicrobial stewardship activities; surveillance of antibiotic-resistant bacterial infections, including publicly available and up-to-date information on resistance to antibiotics; education for health care providers and the public with respect to up-to-date information on antibiotic resistance and ways to reduce or combat such resistance to antibiotics related to humans and animals; methods to prevent or reduce the transmission of antibiotic-resistant bacterial infections; including stewardship programs; and coordination with respect to international efforts in order to inform and advance the United States' capabilities to combat antibiotic resistance.

The Advisory Council is authorized to consist of at least 30 members, including the voting and non-voting members and the Chair and Vice Chair. The current composition of the Advisory Council consists of 15 voting members, including the Chair and Vice Chair, eight non-voting liaison representative members, and 12 non-voting *ex-officio* members.

This announcement is to solicit nominations to fill 16 positions that are scheduled to be vacated during the 2023 calendar year, nine of which are in the voting member category while the remaining seven are in the non-voting liaison member category. Newly appointed voting members are appointed to serve four year terms, and non-voting liaison members are appointed to serve for two year terms.

The nine voting members sought for this solicitation will be selected from individuals who are engaged in: research on, or implementation of, interventions regarding efforts to preserve the effectiveness of antibiotics by optimizing their use; advancing research to develop improved methods for combating antibiotic resistance and conducting antibiotic stewardship; strengthening surveillance of antibiotic-resistant bacterial infections; preventing the transmission of antibiotic-resistant bacterial infections; advancing the development of rapid point-of-care and agricultural diagnostics; furthering research on new treatments for bacterial infections; developing alternatives to antibiotics for agricultural purposes; maximizing the dissemination of up-to-date information on the appropriate and proper use of antibiotics to the general public and human and animal health care providers; and improving international coordination of efforts to combat antibiotic resistance.

The voting members will represent balanced points of view from human biomedical, public health, One Health, global antimicrobial resistance, environmental microbiology, animal agriculture (*e.g.,* poultry, cattle, swine, aquaculture), and crop agricultural fields. The voting members may be physicians (*e.g.,* infectious disease specialists), veterinarians (*e.g.,* companion animal, food-animal), crop scientists, epidemiologists, microbiologists, or other health care professionals (*e.g.,* nurses, pharmacists, others); individuals who have expertise and experience as consumer or patient advocates concerned with antibiotic resistance; individuals in the fields of agriculture and pharmaceuticals; and/or they also may be from state or local health agencies or public health organizations. The voting members will be appointed by the Secretary. All voting members will be classified as special government employees (SGEs).

The seven non-voting liaison representatives are selected from organizations and/or interest groups that are involved in the advocacy, education, development, testing, licensing, production, procurement, distribution, and/or use of antibiotics and/or antibiotic research. Non-voting liaison representative members shall possess knowledge, skills, experience, and expertise necessary to inform the Advisory Council in generating intelligent recommendations with respect to the issues mandated by PAHPAIA. Individuals from the following sample sectors are being sought to serve as non-voting liaison representatives: (1) professional organizations or associations representing providers, professionals, or specialists (*e.g.,* long-term care, outpatient) for human and/or animal health involved in infection control and prevention, antimicrobial stewardship, or antimicrobial resistance and use; this can include but is not limited to physicians, nurses, pharmacists, microbiologists, veterinarians, or scientists; (2) public health, environmental health, and/or animal health organizations or associations (state/territorial, county, or local) representing laboratories, health officials, epidemiologists, agricultural state departments, hospitals, or environmental associations; (3) other organizations representing patients and consumer advocates, hospitals, pharmaceutical industry, global health, food producers and retailers, or other commodity groups.

Individuals who are appointed to serve as voting and non-voting liaison members may be allowed to receive per diem and reimbursement for any applicable expenses for travel that is performed to attend meetings of the Advisory Council as authorized by 5 U.S.C. 5703, for persons employed intermittently in the Government service. The Advisory Council meets, at a minimum, two times per year depending on the availability of funds. Meetings are open to the public, except as determined otherwise by the Secretary, or other official to whom the

authority has been delegated, in accordance with guidelines under the Sunshine Act, 5 U.S.C. 552b(c).

Every effort will be made to ensure that the membership of federal advisory committees is diverse, equitable, and fairly balanced in terms of the expertise represented. Detailed information on what is required in a nomination package and how to submit one is on the Advisory Council website, *https://www.hhs.gov/ash/advisory-committees/paccarb/index.html.*

B. Kaye Hayes,

Deputy Assistant Secretary for Infectious Disease, Director, Office of Infectious Disease and HIV/AIDS Policy (OIDP), Executive Director, Presidential Advisory Council on HIV/AIDS (PACHA).

[FR Doc. 2022–16346 Filed 7–29–22; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs using Urine or Oral Fluid (Mandatory Guidelines).

FOR FURTHER INFORMATION CONTACT: Anastasia Donovan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Donovan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: In accordance with Section 9.19 of the Mandatory Guidelines, a notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/resources/drug-testing/certified-lab-list.*

The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020.

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid dated October 25, 2019 (84 FR 57554), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190, (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Desert Tox, LLC, 5425 E Bell Rd., Suite 125, Scottsdale, AZ, 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare *, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630, (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Laboratory Corporation of America Holdings, 7207 N Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Legacy Laboratory Services Toxicology, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

MedTox Laboratories, Inc., 402 W County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

The following laboratory is voluntarily withdrawing from the National Laboratory Certification Program effective July 22, 2022:

Cordant Health Solutions, 2617 East L Street, Tacoma, VA 98421, 800–442–0438, (Formerly: STERLING Reference Laboratories)

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Anastasia Marie Donovan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2022–16375 Filed 7–29–22; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 22–17]

COBRA Fees To Be Adjusted for Inflation in Fiscal Year 2023

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) is adjusting certain customs user fees and corresponding limitations established by the Consolidated Omnibus Budget Reconciliation Act (COBRA) for Fiscal Year 2023 in accordance with the Fixing America's Surface Transportation Act (FAST Act) as implemented by the CBP regulations.

DATES: The adjusted amounts of customs COBRA user fees and their corresponding limitations set forth in this notice for Fiscal Year 2023 are required as of October 1, 2022.

FOR FURTHER INFORMATION CONTACT: Tina Ghiladi, Senior Advisor, International Travel & Trade, Office of Finance, 202–344–3722, *UserFeeNotices@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Adjustments of COBRA User Fees and Corresponding Limitations for Inflation

On December 4, 2015, the Fixing America's Surface Transportation Act (FAST Act, Pub. L. 114–94) was signed into law. Section 32201 of the FAST Act amended section 13031 of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (19 U.S.C. 58c) by requiring the Secretary of the Treasury (Secretary) to adjust certain customs COBRA user fees and corresponding limitations to reflect certain increases in inflation.

Sections 24.22 and 24.23 of title 19 of the Code of Federal Regulations (19 CFR 24.22 and 24.23) describe the procedures that implement the requirements of the FAST Act. Specifically, paragraph (k) in section 24.22 (19 CFR 24.22(k)) sets forth the methodology to determine the change in inflation as well as the factor by which the fees and limitations will be adjusted, if necessary. The fees and limitations subject to adjustment, which are set forth in Appendix A and Appendix B of part 24, include the commercial vessel arrival fees, commercial truck arrival fees, railroad car arrival fees, private vessel arrival fees, private aircraft arrival fees, commercial aircraft and vessel passenger arrival fees, dutiable mail fees, customs broker permit user fees, barges and other bulk carriers arrival fees, and merchandise processing fees, as well as the corresponding limitations.

B. Determination of Whether an Adjustment Is Necessary for Fiscal Year 2023

In accordance with 19 CFR 24.22, CBP must determine annually whether the fees and limitations must be adjusted to reflect inflation. For Fiscal Year 2023, CBP is making this determination by comparing the average of the Consumer Price Index—All Urban Consumers, U.S. All items, 1982–1984 (CPI–U) for the current year (June 2021–May 2022) with

the average of the CPI–U for the comparison year (June 2020–May 2021) to determine the change in inflation, if any. If there is an increase in the CPI–U of greater than one (1) percent, CBP must adjust the customs COBRA user fees and corresponding limitations using the methodology set forth in 19 CFR 24.22(k). Following the steps provided in paragraph (k)(2) of section 24.22, CBP has determined that the increase in the CPI–U between the most recent June to May twelve-month period (June 2021–May 2022) and the comparison year (June 2020–May 2021) is 6.87 [1] percent. As the increase in the CPI–U is greater than one (1) percent, the customs COBRA user fees and corresponding limitations must be adjusted for Fiscal Year 2023.

C. Determination of the Adjusted Fees and Limitations

Using the methodology set forth in section 24.22(k)(2) of the CBP regulations (19 CFR 24.22(k)), CBP has determined that the factor by which the base fees and limitations will be adjusted is 18.629 percent (base fees and limitations can be found in Appendices A and B to part 24 of title 19). In reaching this determination, CBP calculated the values for each variable found in paragraph (k) of 19 CFR 24.22 as follows:

- The arithmetic average of the CPI–U for June 2021–May 2022, referred to as (A) in the CBP regulations, is 279.974;
- The arithmetic average of the CPI–U for Fiscal Year 2014, referred to as (B), is 236.009;
- The arithmetic average of the CPI–U for the comparison year (June 2020–May 2021), referred to as (C), is 261.992;
- The difference between the arithmetic averages of the CPI–U of the comparison year (June 2020–May 2021) and the current year (June 2021–May 2022), referred to as (D), is 17.982;
- This difference rounded to the nearest whole number, referred to as (E), is 18;
- The percentage change in the arithmetic averages of the CPI–U of the comparison year (June 2020–May 2021) and the current year (June 2021–May 2022), referred to as (F), is 6.87 percent;
- The difference in the arithmetic average of the CPI–U between the current year (June 2021–May 2022) and the base year (Fiscal Year 2014), referred to as (G), is 43.966; and
- Lastly, the percentage change in the CPI–U from the base year (Fiscal Year 2014) to the current year (June 2021–May 2022), referred to as (H), is 18.629 percent.

D. Announcement of New Fees and Limitations

The adjusted amounts of customs COBRA user fees and their corresponding limitations for Fiscal Year 2023 as adjusted by 18.629 percent set forth below are required as of October 1, 2022. Table 1 provides the fees and limitations found in 19 CFR 24.22 as adjusted for Fiscal Year 2023, and Table 2 provides the fees and limitations found in 19 CFR 24.23 as adjusted for Fiscal Year 2023.

TABLE 1—CUSTOMS COBRA USER FEES AND LIMITATIONS FOUND IN 19 CFR 24.22 AS ADJUSTED FOR FISCAL YEAR 2023

19 U.S.C. 58c	19 CFR 24.22	Customs COBRA user fee/limitation	New fee/ limitation adjusted in accordance with the FAST Act
(a)(1)	(b)(1)(i)	Fee: Commercial Vessel Arrival Fee	$518.41
(b)(5)(A)	(b)(1)(ii)	Limitation: Calendar Year Maximum for Commercial Vessel Arrival Fees	7,064.34
(a)(8)	(b)(2)(i)	Fee: Barges and Other Bulk Carriers Arrival Fee	130.49
(b)(6)	(b)(2)(ii)	Limitation: Calendar Year Maximum for Barges and Other Bulk Carriers Arrival Fees	1,779.43
(a)(2)	(c)(1)	Fee: Commercial Truck Arrival Fee [2] [3]	6.50
(b)(2)	(c)(2) and (3)	Limitation: Commercial Truck Calendar Year Prepayment Fee [4]	118.63
(a)(3)	(d)(1)	Fee: Railroad Car Arrival Fee	9.79
(b)(3)	(d)(2) and (3)	Limitation: Railroad Car Calendar Year Prepayment Fee	118.63
(a)(4)	(e)(1) and (2)	Fee and Limitation: Private Vessel or Private Aircraft First Arrival/Calendar Year Prepayment Fee.	32.62
(a)(6)	(f)	Fee: Dutiable Mail Fee	6.52
(a)(5)(A)	(g)(1)(i)	Fee: Commercial Vessel or Commercial Aircraft Passenger Arrival Fee	6.52
(a)(5)(B)	(g)(1)(ii)	Fee: Commercial Vessel Passenger Arrival Fee (from one of the territories and possessions of the United States).	2.29
(a)(7)	(h)	Fee: Customs Broker Permit User Fee	163.71

[1] The figures provided in this notice may be rounded for publication purposes only. The calculations for the adjusted fees and limitations were made using unrounded figures, unless otherwise noted.

[2] The Commercial Truck Arrival Fee is the CBP fee only; it does not include the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Agricultural and Quarantine Inspection (AQI) Services Fee (currently $7.55) that is collected by CBP on behalf of USDA to make a total Single Crossing Fee of $14.05. *See* 7 CFR 354.3(c) and 19 CFR 24.22(c)(1). Once eighteen Single Crossing Fees have been paid and used for a vehicle identification number (VIN)/vehicle in a Decal and Transponder Online Procurement System (DTOPS) account within a calendar year, the payment required for the nineteenth (and subsequent) single-crossing is only the AQI fee (currently $7.55) and no longer includes CBP's $6.50 Commercial Truck Arrival fee (for the remainder of that calendar year).

[3] The Commercial Truck Arrival fee is adjusted down from $6.52 to the nearest lower nickel. *See* 82 FR 50523 (November 1, 2017).

[4] The Commercial Truck Calendar Year Prepayment Fee is the CBP fee only; it does not include the AQI Commercial Truck with Transponder Fee (currently $301.67) that is collected by CBP on behalf of APHIS to make the total Commercial Vehicle Transponder Annual User Fee of $420.30.

TABLE 2—CUSTOMS COBRA USER FEES AND LIMITATIONS FOUND IN 19 CFR 24.23 AS ADJUSTED FOR FISCAL YEAR 2023

19 U.S.C. 58c	19 CFR 24.23	Customs COBRA user fee/limitation	New fee/ limitation adjusted in accordance with the FAST Act
(b)(9)(A)(ii)	(b)(1)(i)(A)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/ Bill of Lading Fee.	$1.19
(b)(9)(B)(i)	(b)(4)(ii)[5]	Limitation: Minimum Express Consignment Carrier/Centralized Hub Facility Fee[6]	0.42
(b)(9)(B)(i)	(b)(4)(ii)[7]	Limitation: Maximum Express Consignment Carrier/Centralized Hub Facility Fee	1.19
(a)(9)(B)(i); (b)(8)(A)(i).	(b)(1)(i)(B)[8]	Limitation: Minimum Merchandise Processing Fee[9]	29.66
(a)(9)(B)(i); (b)(8)(A)(i).	(b)(1)(i)(B)[10]	Limitation: Maximum Merchandise Processing Fee[11 12]	575.35
(b)(8)(A)(ii)	(b)(1)(ii)	Fee: Surcharge for Manual Entry or Release	3.56
(a)(10)(C)(i)	(b)(2)(i)	Fee: Informal Entry or Release; Automated and Not Prepared by CBP Personnel	2.37
(a)(10)(C)(ii)	(b)(2)(ii)	Fee: Informal Entry or Release; Manual and Not Prepared by CBP Personnel	7.12
(a)(10)(C)(iii)	(b)(2)(iii)	Fee: Informal Entry or Release; Manual; Prepared by CBP Personnel	10.68
(b)(9)(A)(ii)	(b)(4)	Fee: Express Consignment Carrier/Centralized Hub Facility Fee, Per Individual Waybill/ Bill of Lading Fee.	1.19

Tables 1 and 2, setting forth the adjusted fees and limitations for Fiscal Year 2023, will also be maintained for the public's convenience on the CBP website at *www.cbp.gov.*

Chris Magnus, the Commissioner of CBP, having reviewed and approved this document, is delegating the authority to electronically sign this document to Robert F. Altneu, who is the Director of the Regulations and Disclosure Law Division for CBP, for purposes of publication in the **Federal Register**.

Robert F. Altneu,

Director, Regulations & Disclosure Law Division, Regulations & Rulings, Office of Trade, U.S. Customs and Border Protection.

[FR Doc. 2022–16533 Filed 7–28–22; 4:15 pm]

BILLING CODE 9111–14–P

[5] Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(2) of section 24.23. However, the reference should have been to paragraph (b)(4)(ii). CBP intends to publish a future document in the **FEDERAL REGISTER** to make several technical corrections to part 24 of title 19 of the CFR, including corrections to Appendix B of part 24. The technical corrections will also address the inadvertent errors specified in footnotes 7, 8, and 10 below.

[6] Although the minimum limitation is published, the fee charged is the fee required by 19 U.S.C. 58c(b)(9)(A)(ii).

[7] Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(2) of section 24.23. However, the reference should have been to paragraph (b)(4)(ii).

[8] Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(1) of section 24.23. However, the reference should have been to paragraph (b)(1)(i)(B).

[9] Only the limitation is increasing; the *ad valorem* rate of 0.3464 percent remains the same. *See* 82 FR 50523 (November 1, 2017).

[10] Appendix B of part 24 inadvertently included a reference to paragraph (b)(1)(i)(B)(1) of section 24.23. However, the reference should have been to paragraph (b)(1)(i)(B).

[11] Only the limitation is increasing; the *ad valorem* rate of 0.3464 percent remains the same. *See* 82 FR 50523 (November 1, 2017).

[12] For monthly pipeline entries, see *https://www.cbp.gov/trade/entry-summary/pipeline-monthly-entry-processing/pipeline-line-qa.*

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB–2022–0009]

RIN 1653–ZA29

Employment Authorization for Syrian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Civil War in Syria Since March 2011

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F–1 nonimmigrant students whose country of citizenship is Syria, regardless of country of birth (or individuals having no nationality who last habitually resided in Syria), and who are experiencing severe economic hardship as a direct result of the civil war in Syria. The Secretary is taking action to provide relief to these Syrian students who are lawful F–1 nonimmigrant students so the students may request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F–1 nonimmigrant student status. The U.S. Department of Homeland Security (DHS) will deem an F–1 nonimmigrant student who receives employment authorization by means of this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This F–1 visa action is effective from October 1, 2022, until April 1, 2024.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536–5600; email: *sevp@ice.dhs.gov,* telephone: (703) 603–3400. This is not a toll-free number. Program information can be found at *https://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising the authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Syria regardless of country of birth (or individuals having no nationality who last habitually resided in Syria), who are lawfully present in the United States in F–1 nonimmigrant student status on the date of publication of this notice and

who are experiencing severe economic hardship as a direct result of the civil war in Syria since March 2011. The original notice, which applied to F–1 nonimmigrant students who met certain criteria, including having been lawfully present in the United States in F–1 nonimmigrant status on April 3, 2012, was effective from April 3, 2012, until October 3, 2013. *See* 77 FR 20038 (Apr. 3, 2012). A subsequent notice provided for an 18-month extension from October 3, 2013, through March 31, 2015. *See* 78 FR 36211 (June 17, 2013). A third notice provided another 18-month extension from March 31, 2015, through September 30, 2016. *See* 80 FR 232 (Jan. 5, 2015). A fourth notice provided another 18-month extension from September 30, 2016, through March 31, 2018, and expanded the applicability of such suspension to Syrian F–1 nonimmigrant students who were in lawful F–1 nonimmigrant student status between April 3, 2012, and September 9, 2016. *See* 81 FR 62520 (Sept. 9, 2016). A fifth notice provided another 18-month extension from March 31, 2018, until September 30, 2019. *See* 83 FR 11553 (Mar. 15, 2018). A sixth notice once again provided an 18-month extension to Syrian students from April 22, 2021, to September 30, 2022. *See* 86 FR 21333 (Apr. 22, 2021). Effective with this publication, suspension of the employment limitations is available to April 1, 2024, for those who are in lawful F–1 nonimmigrant status as of August 1, 2022. DHS will deem an F–1 nonimmigrant student granted employment authorization through this notice to be engaged in a ''full course of study'' for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.[1] *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F–1 nonimmigrant students who meet all of the following conditions:

(1) Are a citizen of Syria regardless of country of birth (or an individual having no nationality who last habitually resided in Syria);

(2) Were lawfully present in the United States in F–1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i), on the date of publication of this notice;

(3) Are enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F–1 nonimmigrant students;

(4) Are currently maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the civil war in Syria.

This notice applies to F–1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school grades 9 through 12, and undergraduate and graduate education. An F–1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

Why is DHS taking this action?

DHS is taking action to provide relief to Syrian F–1 nonimmigrant students experiencing severe economic hardship due to civil war in Syria. Based on its review of country conditions in Syria and input received from the U.S. Department of State, DHS is taking action to allow eligible F–1 nonimmigrant students from Syria to request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

Previously DHS took action to provide temporary relief to F–1 nonimmigrant students whose country of citizenship is Syria regardless of country of birth (or individuals having no nationality who last habitually resided in Syria) and who experienced severe economic hardship because of the civil war in Syria. *See* 77 FR 20038 (Apr. 3, 2012); 78 FR 36211 (June 17, 2013); 80 FR 232 (Jan. 5, 2015); 81 FR 62520 (Sept. 9, 2016); 83 FR 11553 (Mar. 15, 2018); 86 FR 21333 (Apr. 22, 2021). It enabled these F–1 nonimmigrant students to obtain employment authorization, work an increased number of hours while school was in session, and reduce their course load, while continuing to maintain their F–1 nonimmigrant student status.

DHS reviewed conditions in Syria and determined that suspending certain employment authorization requirements for eligible nonimmigrant students is again warranted due to the civil war which has resulted in large-scale destruction of infrastructure, mass displacement of civilians, high levels of food insecurity, limited access to water and medical care, and widespread civilian casualties. These impacts have been compounded by the COVID–19 pandemic which has contributed to the further breakdown of the economy and strained an already overburdened healthcare system.

The United Nations has verified that at least 350,209 identified civilians and combatants were killed between March 2011 and March 2021, including 26,727 women and 27,126 children, but it has warned that this figure ''indicates a minimum verifiable number'' and this is an ''undercount of the actual number''.[2] The Syrian Observatory for Human Rights, a United Kingdom-based monitoring group with a network of sources on the ground, had documented the deaths of 494,438 people as of June 2021. It said that at least 159,774 civilians had been killed.[3] The group estimated that the actual toll from the war was more than 606,000, saying 47,000 civilians were believed to have died of torture in government-run prisons.[4] Another monitoring group, the Violations Documentation Center, which relies on information from activists across the country, had documented 239,251 battle-related deaths, including 145,240 civilians, as of June 2022.[5] Additionally, the ongoing military operations have injured more than 2.1 million Syrian civilians with varying injuries, wounds, and permanent disabilities.[6]

[1] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of April 1, 2024, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, *https://www.ice.gov/coronavirus* (last visited June 3, 2022).

[2] This count includes ''only those people identifiable by full name, with an established date of death, and who died in an identified governorate'' and was sourced from OHCHR's own data, records maintained by civil society organizations, and information from the Syrian government. UNOHCR, ''Oral update on the extent of conflict-related deaths in the Syrian Arab Republic | OHCHR'' (September 24, 2021), *https://www.ohchr.org/en/statements/2021/09/oral-update-extent-conflict-related-deaths-syrian-arab-republic?LangID=E&NewsID=27531.*

[3] BBC, ''Why has the Syrian war lasted 11 years'' (Mar 15, 2022), *https://www.bbc.com/news/world-middle-east-35806229.*

[4] *Id.*

[5] Violation Documentation Center, ''Monthly statistical on casualties in Syria, June 2022'' (June 2022), *https://scm.bz/en/violations-watch/monthly-statistical-on-casualities-in-syria-june-2022.*

[6] SOHR, ''Total death toll | Over 606,000 people killed across Syria since the beginning of the

Eleven years of war have inflicted immense suffering on the Syrian people. More than half of Syria's pre-war population of 22 million have fled their homes.[7] Syria has the highest number of internally displaced persons (''IDPs'') in the world.[8] The number of Syrian IDPs to date is approximately 7 million.[9]

Harm to civilians has been widespread, though the magnitude of violence has varied greatly by location. According to the Syrian Network for Human Rights, 1,271 civilians, including 299 children and 134 women, were killed by the parties to the Syrian conflict in 2021.[10] Both government and opposition forces reportedly engage in indiscriminate attacks through the use of airstrikes, explosives, snipers, and rocket and mortar attacks.[11] Since 2021, cities as far north as Idlib, and as far south as Daraa have seen heavy civilian casualties.[12]

Multiple actors in the conflict have been accused of targeting civilians and civilian facilities. In January 2022, Russia conducted airstrikes on the Al Arshani Water Pump Station located west of Idlib city, injuring at least one station worker, causing substantial damage to the station's buildings and equipment, and forcing the station's main water pumping pipe temporarily out of service.[13] In February 2022, there were at least six incidents of attacks impacting vital civilian facilities, among them, a school, two markets, a park, and a livestock farm.[14]

Mandatory military service has been the law in Syria since 2007.[15] Men between the ages of 18 to 42 are required to serve, and women may enlist voluntarily.[16] Conscripts are required to serve for 18 to 21 months, depending on their level of education.[17] Syria has intermittently declared amnesties for military service evaders to encourage returns; however, those who return find themselves back on the conscription lists in as little as seven days, thereby making the amnesty provisions meaningless.[18] In February 2021, the Syrian regime announced an amendment to the military conscription laws. Under the amended law, those who did not do military service before the age of 43 must pay $8,000 or lose their property without notice or any right to appeal.[19]

The Syrian Democratic Forces and other entities in Syria have been accused of forced conscription as well. The Syrian Network for Human Rights recorded Syrian Democratic Forces kidnapping two children in January 2022 with the aim of taking them to its training and recruitment camps and forcibly conscripting them.[20]

Syrian children have suffered disproportionately since the start of the conflict. At least 29,661 children have been killed in Syria since March 2011, including 181 due to torture, in addition to 5,036 arrested and/or forcibly disappeared children.[21] One report, covering the time period from March 2011 to November 20, 2021, estimates that there are 1,374 child soldiers in the Syrian regime forces' ranks.[22]

Human rights abuses continue to be rampant in Syria. One report cites 2,218 cases of arbitrary arrest and/or detention, including 85 children and 77 women, in 2021.[23] The same report notes that at least 104 individuals were documented as being killed as a result of torture in 2021 at the hands of Syrian regime forces, Syrian Democratic Forces, Hay'at Tahrir al Sham, as well as other parties to the conflict.[24] Human Rights Watch has documented 21 cases of arrest and arbitrary detention including 13 cases of torture, 3 kidnappings, 5 extrajudicial killings, and 17 enforced disappearances between 2017 and 2021 among refugees who had returned to Syria from Jordan and Lebanon.[25]

After 11 years of civil war, Syria's healthcare system has suffered gravely. As of March 2021, Physicians for Human Rights has documented 599 attacks hitting hospitals and other healthcare facilities since the start of the civil war.[26] A January 2022 report states that more than 50 percent of healthcare workers are estimated to have left the country in the last decade.[27] Another report from the same month states that frequent bombing and shelling have put nearly 50 percent of health facilities out of service, at a time when the Syrian people need them the most amidst the COVID–19 pandemic.[28] Seven medical personnel were killed in Syria in 2021 at the hands of parties to the conflict and controlling forces in Syria.[29]

''Syrian Revolution'', including 495,000 documented by SOHR (June 1, 2021), *https://www.syriahr.com/en/217360/.*

[7] BBC, *Supra.*

[8] U.N. High Commissioner for Refugees, *Eleven Years on, Mounting Challenges Push Many Displaced Syrians to the Brink* (Mar 15, 2022), *https://www.unhcr.org/en-us/news/briefing/2022/3/623055174/eleven-years-mounting-challenges-push-displaced-syrians-brink.html* (last visited June 3, 2022).

[9] U.S. Agency for International Development, *Syria—Complex Emergency Fact Sheet #4, Fiscal Year 2022* (Mar. 4, 2022), *https://reliefweb.int/report/syrian-arab-republic/syria-complex-emergency-fact-sheet-4-fiscal-year-fy-2022* (last visited June 3, 2022).

[10] Syrian Network for Human Rights (SNHR), *Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021* (Jan. 21, 2022), *https://snhr.org/wp-content/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf* (Last visited June 3, 2022).

[11] Human Rights Watch, *Syria: Events of 2021* (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria* (last visited June 3, 2022).

[12] *Id.*

[13] Daily Sabah, *Russia Continues to Attack Syrians, Infrastructure for 6th Day in Row* (Jan. 4, 2022), *https://www.dailysabah.com/world/syrian-crisis/russia-continues-to-attack-syrians-infrastructure-for-6th-day-in-row* (last visited June 3, 2022).

[14] SNHR, *The Most Notable Human Rights Violations in Syria in February 2022* (Mar. 4, 2022), *https://snhr.org/wp-content/uploads/2022/03/M220303E.pdf* (last visited June 3, 2022).

[15] The Tahrir Institute for Middle East Policy, *TIMEP Brief: Conscription Law* (Aug 22, 2019), *https://timep.org/reports-briefings/timep-brief-conscription-law/* (last visited June 3, 2022).

[16] *Id.*

[17] *Id.*

[18] Human Rights Watch, *Our Lives are Like Death* (Oct. 2021), *https://www.hrw.org/sites/default/files/media_2021/10/syria1021_web.pdf* (last visited June 3, 2022).

[19] The Guardian, *Displaced Syrians Face Losing Homes to New Government Fines* (Mar. 5, 2021) *https://www.theguardian.com/world/2021/mar/05/displaced-syrians-face-losing-homes-to-new-government-fines* (last visited June 3, 2022).

[20] SNHR, *143 Arbitrary Arrests/Detentions Documented in Syria in January 2022, including 2 children,* (Feb. 2, 2022), *https://snhr.org/wp-content/pdf/english/143_Arbitrary_Arrests_Detentions_Documented_in_Syria_in_January_2022_Including_Two_Children_en.pdf* (last visited June 3, 2022).

[21] SNHR, *On World Children's Day; Tenth Annual Report on Violations against Children in Syria* (Nov. 20, 2021), *https://reliefweb.int/report/syrian-arab-republic/world-children-s-day-tenth-annual-report-violations-against-children* (last visited June 3, 2022).

[22] *Id.*

[23] SNHR, *Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021* (Jan. 21, 2022), *https://snhr.org/wpcontent/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf* (last visited June 3, 2022).

[24] *Id.*

[25] Human Rights Watch, *Syria: Events of 2021* (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria* (last visited June 3, 2022).

[26] Physicians for Human Rights, *A Decade of Death, Destruction, and Denial: Ten Years into Syria's Conflict, Impunity for Atrocities Prevails, https://phr.org/our-work/resources/syria-ten-years/* (last visited June 3, 2022).

[27] The United Nations Office for the Coordination of Humanitarian Affairs, *Situation Report #35: Recent Developments in Northwest Syria and RAATA* (Jan. 2022), *https://www.humanitarianresponse.info/en/operations/stima/document/situation-report-35-recent-developments-northwest-syria-and-raata-january* (last visited June 3, 2022).

[28] Daily Sabah, *Russia Continues to Attack Syrians, Infrastructure for 6th Day in Row* (Jan. 4, 2022), *https://www.dailysabah.com/world/syrian-crisis/russia-continues-to-attack-syrians-infrastructure-for-6th-day-in-row* (last visited June 3, 2022).

[29] SNHR, *Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021* (Jan. 21, 2022), *https://snhr.org/wp-content/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf* (last visited June 3, 2022).

According to the World Food Program, at least 12.4 million Syrians, out of an estimated population of 16 million, are food insecure.[30] This 2021 estimate reflects an increase of 3.1 million food insecure people in one year.[31]

In October 2021, the World Bank estimated that the Syrian economy had shrunk by more than 60 percent since 2010.[32] Between October 2019 and October 2021, the Syrian pound lost 82 percent of its value against the dollar.[33] The United Nations Office for the Coordination of Humanitarian Affairs estimated that in 2021, 90 percent of the population lived below the poverty line.[34]

As of June 1, 2022, approximately 255 F–1 nonimmigrant students from Syria are enrolled at SEVP-certified academic institutions in the United States. Given the extent of the civil war in Syria, affected students whose primary means of financial support comes from Syria may need to be exempt from the normal student employment requirements to continue their studies in the United States. The civil war has made it unfeasible for many students to safely return to Syria for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

What is the minimum course load requirement to maintain valid F–1 nonimmigrant status under this notice?

Undergraduate F–1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term. Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B) and (F). A graduate-level F–1 nonimmigrant student who receives on—campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F–1 nonimmigrant student (either undergraduate or graduate) granted on—campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless their course of study is in an English language study program.[35] *See* 8 CFR 214.2(f)(6)(i)(G). An F–1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain ''class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,'' as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of Federal and State labor laws limiting the employment of minors.

May an eligible F–1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F–1 nonimmigrant student who is a Syrian citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in Syria), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F–1 nonimmigrant student may benefit without having to apply for a new Form I–766, Employment Authorization Document (EAD). To benefit from this notice, the F–1 nonimmigrant student must request that their designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert ''on-campus'' or ''off-campus,'' depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].[36]

Must the F–1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her ''full course of study''?

No. DHS will deem an F–1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a ''full course of study'' [37] for the duration of the student's employment authorization, provided that a qualifying undergraduate level F–1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F–1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Undergraduate F–1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a ''full course of study.'' *See* 8 CFR 214.2(f)(6)(i)(B) and (F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F–1 nonimmigrant status.

[30] Human Rights Watch, *Syria: Events of 2021* (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria* (last visited June 3, 2022).

[31] *Id.*

[32] Human Rights Watch, *Our Lives Are Like Death* (Oct. 2021), *https://www.hrw.org/sites/default/files/media_2021/10/syria1021_web.pdf* (last visited June 3, 2022).

[33] International Rescue Committee, *Crisis in Syria: Economic Crisis Compounds Over a Decade of War* (Mar. 15, 2022), *https://www.rescue.org/article/crisis-syria-economic-crisis-compounds-over-decade-war* (last visited June 3, 2022).

[34] Human Rights Watch, *Syria: Events of 2021* (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria* (last visited June 3, 2022).

[35] DHS considers students who are compliant with ICE Coronavirus Disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such COVID–19 guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, *https://www.ice.gov/coronavirus* (last visited June 3, 2022).

[36] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of April 1, 2024, provided the student satisfies the minimum course load requirements in this notice.

[37] *See* 8 CFR 214.2(f)(6).

Will an F–2 dependent (spouse or minor child) of an F–1 nonimmigrant student covered by this notice be eligible for employment authorization?

No. An F–2 spouse or minor child of an F–1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F–2 nonimmigrant status, consistent with 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F–1 visa and makes an initial entry into the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to certain F–1 nonimmigrant students who meet the following conditions:

(1) Are a citizen of Syria regardless of country of birth (or an individual having no nationality who last habitually resided in Syria);

(2) Were lawfully present in the United States in F–1 nonimmigrant status, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i) on the date of publication of this notice;

(3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F–1 nonimmigrant students;

(4) Are maintaining F–1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of civil war in Syria.

An F–1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the civil war in Syria).

Does this notice apply to a continuing F–1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F–1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F–1 nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I–20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F–1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F–1 status?

Yes. However, this notice does not by itself reduce the required course load for F–1 nonimmigrant students from Syria enrolled in kindergarten through grade 12 at a private school, or grades 9 through 12 at a public high school. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation, as required under 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F–1 nonimmigrant students regardless of educational level. Eligible F–1 nonimmigrant students from Syria enrolled in an elementary school, middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of Federal and State labor laws limiting the employment of minors.

On-Campus Employment Authorization

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F–1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F–1 nonimmigrant student's on—campus employment to 20 hours per week while school is in session. An eligible F–1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the student's SEVIS record, which will be reflected on the student's Form I–20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].[38]

To obtain on-campus employment authorization, the F–1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from civil war in Syria. An F–1 nonimmigrant student authorized by the DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when school is not in session or during school vacations apply, as described in 8 CFR 214.2(f)(9)(i).

Will an F–1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F–1 nonimmigrant student status?

Yes. DHS will deem an F–1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a ''full course of study'' [39] for the purpose of maintaining their F–1 nonimmigrant student status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if the reduction would not meet the academic institution's minimum course load requirement for continued enrollment.[40]

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F–1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following

[38] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of April, 1, 2024, provided the student satisfies the minimum course load requirements in this notice.

[39] *See* 8 CFR 214.2(f)(6).

[40] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F–1 nonimmigrant student status for one full academic year to be eligible for off-campus employment;

(b) The requirement that an F–1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;

(c) The requirement that limits an F–1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while the school is in session; and

(d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

Will an F–1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F–1 nonimmigrant status?

Yes. DHS will deem an F–1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a ''full course of study'' [41] for the purpose of maintaining F–1 nonimmigrant student status for the duration of the student's employment authorization if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization for a reduced course load is solely for DHS purposes of determining valid F–1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F–1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school's minimum course load requirement.[42]

How may an eligible F–1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F–1 nonimmigrant student must file a Form I–765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the civil war in Syria. Filing instructions are located at *https://www.uscis.gov/i-765.*

Fee considerations. Submission of a Form I–765 currently requires payment of a $410 fee. An applicant who is unable to pay the fee may submit a completed Form I–912, Request for Fee Waiver, along with the Form I–765, Application for Employment Authorization. *See www.uscis.gov/feewaiver.* The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c). If you receive a denial of a fee waiver request, you must refile your Form I–765 along with the required fees.

Supporting documentation. An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to their DSO:

(1) This employment is necessary to avoid severe economic hardship; and

(2) The hardship is a direct result of the civil war in Syria.

If the DSO agrees that the F–1 nonimmigrant student is entitled to receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I–20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I–766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].[43]

The F–1 nonimmigrant student must then file the properly endorsed Form I–20 and Form I–765 according to the instructions for the Form I–765. The F–1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that an F–1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F–1 nonimmigrant student is in good academic standing and is carrying a ''full course of study'' [44] at the time of the request for employment authorization;

(b) The F–1 nonimmigrant student is a citizen of Syria, regardless of country of birth (or an individual having no nationality who last habitually resided in Syria), and is experiencing severe economic hardship as a direct result of the civil war in Syria, as documented on the Form I–20;

(c) The F–1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of this notice and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level; [45] and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the civil war in Syria.

Processing. To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F–1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes all of the following documents:

(1) A completed Form I–765;

(2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student's Form I–20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase ''SPECIAL STUDENT RELIEF.'' Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I–765, USCIS will send the student a Form I–766 EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

[41] *See* 8 CFR 214.2(f)(6).

[42] Minimum course load requirement for enrollment in a school must be established in a publicly available document (*e.g.,* catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

[43] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of April 1, 2024, provided the student satisfies the minimum course load requirements in this notice.

[44] *See* 8 CFR 214.2(f)(6).

[45] 8 CFR 214.2(f)(5)(v).

Temporary Protected Status (TPS) Considerations

Can an F–1 nonimmigrant student re-register or apply for TPS and for benefits under this notice at the same time?

Yes. An F–1 nonimmigrant student who must re-register, or one that has not yet applied for TPS or for other relief that reduces the student's course load per term and permits an increased number of work hours per week, such as Special Student Relief,[46] under this notice has two options.

Under the first option, the nonimmigrant student may re-register or apply for TPS according to the instructions in the USCIS notice designating Syria for TPS elsewhere in this issue of the **Federal Register**. All TPS applicants must file a Form I–821, Application for Temporary Protected Status with the appropriate fee (or request a fee waiver). Although not required to do so, if F–1 nonimmigrant students want to obtain a new EAD based on their TPS application that is valid to April 1, 2024, and to be eligible for automatic EAD extensions that may be available to certain EADs with an A–12 or C–19 category code, they may need to file Form I–765 and pay the Form I–765 fee (or submit a Form I–912, Request for Fee Waiver). After receiving the TPS-related EAD, an F–1 nonimmigrant student may request that their DSO make the required entry in SEVIS, issue an updated Form I–20, as described in this notice, and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate their nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains TPS, then the student maintains F–1 status and TPS concurrently.

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing Form I–765 with the location specified in the filing instructions. At the same time, the F–1 nonimmigrant student may file a separate TPS application but must submit the Form I–821 according to the instructions provided in the **Federal Register** notice designating Syria for TPS. If the F–1 nonimmigrant student has already applied for employment authorization under Special Student Relief they are not required to submit the Form I–765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS EAD in light of certain extensions that may be available to EADs with an A–12 or C–19 category code. The nonimmigrant student should check the appropriate box when filling out Form I–821 to indicate whether a TPS-related EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F–1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F–1 nonimmigrant student must maintain normal course load requirements for a ''full course of study'' [47] unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (*e.g.,* clock hours for non-traditional academic programs). Once approved for Special Student Relief employment authorization, the F–1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

How does a student who has received a TPS-related EAD then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F–1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the civil war in Syria. The DSO will then verify and update the student's record in SEVIS to enable the F–1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F–1 nonimmigrant student to have employment authorization.

Can a noncitizen who has been granted TPS apply for reinstatement of F–1 nonimmigrant student status after the noncitizen's F–1 nonimmigrant student status has lapsed?

Yes. Regulations permit certain students who fall out of F–1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the F–1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until April 1, 2024,[48] to eligible F–1 nonimmigrant students. DHS will continue to monitor the situation in Syria. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the **Federal Register**.

Paperwork Reduction Act (PRA)

An F–1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the civil war in Syria must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The

[46] *See* DHS Study in the States, Special Student Relief, *https://studyinthestates.dhs.gov/students/special-student-relief* (last visited June 3, 2022).

[47] *See* 8 CFR 214.2(f)(6).

[48] Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F–1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a ''full course of study,'' *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of April 1, 2024, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID–19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID–19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, *https://www.ice.gov/coronavirus* (last visited June 3, 2022).

authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653–0038.

This notice also allows an eligible F–1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F–1 nonimmigrant student status.

To apply for employment authorization, certain F–1 nonimmigrant students must complete and submit a currently approved Form I–765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I–765, consistent with the PRA (OMB Control No. 1615–0040). Although there will be a slight increase in the number of Form I–765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I–765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2022–16469 Filed 7–29–22; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2681–21; DHS Docket No. USCIS–2013–0001]

RIN 1615–ZB72

Extension and Redesignation of Syria for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: Notice of Temporary Protected Status (TPS) extension and redesignation.

SUMMARY: Through this notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Syria for Temporary Protected Status (TPS) for 18 months, effective October 1, 2022, through March 31, 2024. This extension allows existing TPS beneficiaries to retain TPS through March 31, 2024, so long as they otherwise continue to meet the eligibility requirements for TPS. Existing TPS beneficiaries who wish to extend their status through March 31, 2024, must re-register during the 60-day re-registration period described in this notice. The Secretary is also redesignating Syria for TPS. The redesignation of Syria allows additional Syrian nationals (and individuals having no nationality who last habitually resided in Syria) who have been continuously residing in the United States since July 28, 2022 to apply for TPS for the first time during the initial registration period described under the redesignation information in this notice. In addition to demonstrating continuous residence in the United States since July 28, 2022 and meeting other eligibility criteria, initial applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since October 1, 2022, the effective date of this redesignation of Syria for TPS.

DATES:

Extension of Designation of Syria for TPS: The 18-month extension of Syria's designation for TPS is effective on October 1, 2022, and will remain in effect for 18 months, through March 31, 2024. The extension impacts existing beneficiaries of TPS.

Re-registration: The 60-day re-registration period for existing beneficiaries runs from August 1, 2022through September 30, 2022. (Note: It is important for re-registrants to timely re-register during the registration period and not to wait until their Employment Authorization Documents (EADs) expire, as delaying reregistration could result in gaps in their employment authorization documentation.)

Redesignation of Syria for TPS: The 18-month redesignation of Syria for TPS is effective on October 1, 2022, and will remain in effect for 18 months, through March 31, 2024. The redesignation impacts potential first-time applicants and others who do not currently have TPS.

First-time Registration: The initial registration period for new applicants under the Syria TPS redesignation begins on August 1, 2022 and will remain in effect through March 31, 2024.

FOR FURTHER INFORMATION CONTACT: You may contact Rená Cutlip-Mason, Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by mail at 5900 Capital Gateway Drive, Camp Springs, MD 20746, or by phone at 800–375–5283.

For further information on TPS, including guidance on the registration process and additional information on eligibility, please visit the USCIS TPS web page at *uscis.gov/tps.* You can find specific information about Syria's TPS designation by selecting ''Syria'' from the menu on the left side of the TPS web page.

If you have additional questions about TPS, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *uscis.gov*, or visit the USCIS Contact Center at *uscis.gov/contactcenter.*

Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
DOS—U.S. Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Form I–765—Application for Employment Authorization
Form I–797—Notice of Action (Approval Notice)
Form I–821—Application for Temporary Protected Status
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
Form I–94—Arrival/Departure Record
FR—Federal Register
Government—U.S. Government
IER—U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section
IJ—Immigration Judge
INA—Immigration and Nationality Act
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services
U.S.C.—United States Code

Purpose of This Action (TPS)

Through this notice, DHS sets forth procedures necessary for nationals of Syria (or individuals having no nationality who last habitually resided in Syria) to (1) re-register for TPS and

to apply for renewal of their EADs with USCIS or (2) submit an initial registration application under the redesignation and apply for an EAD.

Re-registration is limited to individuals who have previously registered for TPS under a prior designation of Syria and whose applications have been granted. Failure to re-register properly may result in the withdrawal of your TPS following appropriate procedures. *See* 8 CFR 244.14.

For individuals who have already been granted TPS under Syria's designation, the 60-day re-registration period runs from August 1, 2022 through September 30, 2022. USCIS will issue new EADs with a March 31, 2024 expiration date to eligible Syrian TPS beneficiaries who timely re-register and apply for EADs. Given the time frames involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants may receive new EADs before their current EADs expire. Accordingly, through this **Federal Register** notice, DHS automatically extends the validity of certain EADs previously issued under the TPS designation of Syria through September 30, 2023. Therefore, as proof of continued employment authorization through September 30, 2023, TPS beneficiaries can show their EADs that have the notation A–12 or C–19 under Category and a ''Card Expires'' date of September 30, 2022, March 31, 2021, September 30, 2019, or March 31, 2018. This notice explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and how this affects the Form I–9, Employment Eligibility Verification, E-Verify, and USCIS Systematic Alien Verification for Entitlements (SAVE) processes.

Individuals who have a Syria TPS application (Form I–821) and/or Application for Employment Authorization (Form I–765) that was still pending as of August 1, 2022 do not need to file either application again. If USCIS approves an individual's Form I–821, USCIS will grant the individual TPS through March 31, 2024. Similarly, if USCIS approves a pending TPS-related Form I–765, USCIS will issue the individual a new EAD that will be valid through the same date. There are currently approximately 6,448 beneficiaries under Syria's TPS designation.

Under the redesignation, individuals who currently do not have TPS may submit an initial application during the initial registration period that runs from August 1, 2022 and runs through the full length of the redesignation period ending March 31, 2024.[1] In addition to demonstrating continuous residence in the United States since July 28, 2022 and meeting other eligibility criteria, initial applicants for TPS under this redesignation must demonstrate that they have been continuously physically present in the United States since October 1, 2022,[2] the effective date of this redesignation of Syria, before USCIS may grant them TPS. DHS estimates that approximately 960 individuals may become newly eligible for TPS under the redesignation of Syria.

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a foreign state designated for TPS under the INA, or to eligible individuals without nationality who last habitually resided in the designated foreign state, regardless of their country of birth.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to work so long as they continue to meet the requirements of TPS. They may apply for and receive EADs as evidence of employment authorization.
- TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary terminates a foreign state's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid beyond the date TPS terminates.

When was Syria designated for TPS?

Syria was initially designated on the basis of extraordinary and temporary conditions that prevented nationals of Syria from returning in safety. *See Designation of Syrian Arab Republic for Temporary Protected Status,* 77 FR 19026 (Mar. 29, 2012). Following the initial designation, TPS for Syria was extended and newly designated three times: (1) from October 1, 2013, to March 31, 2015, based on ongoing armed conflict and extraordinary and temporary conditions; [3] (2) from April 1, 2015, to September 30, 2016, based on ongoing armed conflict and extraordinary and temporary conditions; [4] and (3) from October 1, 2016, to March 31, 2018, based on ongoing armed conflict and extraordinary and temporary conditions.[5] Thereafter, TPS for Syria was extended from April 1, 2018, to September 30, 2019, based on ongoing armed conflict and extraordinary and temporary conditions [6] and October 1, 2019, to March 31, 2021, based on ongoing armed conflict and extraordinary and temporary conditions.[7] Most recently, TPS for Syria was extended and redesignated

[1] In general, individuals must be given an initial registration period of no less than 180 days to register for TPS, but the Secretary has discretion to provide for a longer registration period. *See* 8 U.S.C. 1254a(c)(1)(A)(iv). In keeping with the humanitarian purpose of TPS and advancing the goal of ensuring ''the Federal Government eliminates . . . barriers that prevent immigrants from accessing government services available to them'' under *Executive Order 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,* 86 FR 8277 (Feb. 5, 2021), the Secretary has recently exercised his discretion to provide for TPS initial registration periods that coincide with the full period of a TPS country's initial designation or redesignation. *See, e.g., Designation of Haiti for Temporary Protected Status,* 86 FR 41863 (Aug. 3, 2021) (providing 18-mos. registration period under new TPS designation of Haiti); *Extension of Initial Registration Periods for New Temporary Protected Status Applicants Under the Designations for Venezuela, Syria and Burma; Correction to the Notice on the Designation of Venezuela for Temporary Protected Status and Implementation of Employment Authorization for Venezuelans Covered by Deferred Enforced Departure,* 86 FR 41986 (Aug. 4, 2021) (extending initial registration periods from 180 days to 18 months for the three applicable countries)). For the same reasons, the Secretary is similarly exercising his discretion to provide applicants under this TPS designation of Syria with an 18-month initial registration period.

[2] The ''continuous physical presence date'' (CPP) is the effective date of the most recent TPS designation of the country, which is either the publication date of the designation announcement in the **Federal Register** or such later date as the Secretary may establish. The ''continuous residence date'' (CR) is any date established by the Secretary when a country is designated (or sometimes redesignated) for TPS. *See* INA § 244(b)(2)(A) (effective date of designation); 244(c)(1)(A)(i–ii) (discussing CR and CPP date requirements).

[3] *See* Extension and Redesignation of Syria for Temporary Protected Status, 78 FR 36223 (June 16, 2013).

[4] *See* Extension and Redesignation of the Syrian Arab Republic for Temporary Protected Status, 80 FR 245, (Jan. 4, 2015).

[5] *See* Extension and Redesignation of Syria for Temporary Protected Status, 81 FR 50533, (Jul. 31, 2016)

[6] *See* Extension of the Designation of Syria for Temporary Protected Status, 83 FR 9329, (Mar. 4, 2018).

[7] *See* Extension of the Designation of Syria for Temporary Protected Status, 84 FR 49751, (Sep. 22, 2019)

from March 31, 2021, to September 30, 2022, based on ongoing armed conflict and extraordinary and temporary conditions.[8]

What authority does the Secretary have to extend the designation of Syria for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the U.S. Government, to designate a foreign state (or part thereof) for TPS if the Secretary determines that certain country conditions exist.[9] The decision to designate any foreign state (or part thereof) is a discretionary decision, and there is no judicial review of any determination with respect to the designation, termination, or extension of a designation. *See* INA section 244(b)(5)(A); 8 U.S.C. 1254a(b)(5)(A).[10] The Secretary, in his or her discretion, may then grant TPS to eligible nationals of that foreign state (or individuals having no nationality who last habitually resided in the designated foreign state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a foreign state's TPS designation or extension, the Secretary, after consultation with appropriate U.S. Government agencies, must review the conditions in the foreign state designated for TPS to determine whether they continue to meet the conditions for the TPS designation. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that the foreign state continues to meet the conditions for TPS designation, the designation will be extended for an additional period of 6 months or, in the Secretary's discretion, 12 or 18 months. *See* INA section 244(b)(3)(A), (C), 8 U.S.C. 1254a(b)(3)(A), (C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

What is the Secretary's authority to redesignate Syria for TPS?

In addition to extending an existing TPS designation, the Secretary, after consultation with appropriate Government agencies, may redesignate a country (or part thereof) for TPS. *See* section 244(b)(1) of the Act, 8 U.S.C. 1254a(b)(1); *see also* section 244(c)(1)(A)(i) of the Act, 8 U.S.C. 1254a(c)(1)(A)(i) (requiring that ''the alien has been continuously physically present since the effective date of the most recent designation of the state'').

When the Secretary designates or redesignates a country for TPS, the Secretary also has the discretion to establish the date from which TPS applicants must demonstrate that they have been ''continuously resid[ing]'' in the United States. *See* section 244(c)(1)(A)(ii) of the Act, 8 U.S.C. 1254a(c)(1)(A)(ii). The Secretary has determined that the ''continuous residence'' date for applicants for TPS under the redesignation of Syria will be July 28, 2022. Initial applicants for TPS under this redesignation must also show they have been ''continuously physically present'' in the United States since October 1, 2022, which is the effective date of the Secretary's redesignation, of Syria. *See* section 244(c)(1)(A)(i) of the Act, 8 U.S.C. 1254a(c)(1)(A)(i). For each initial TPS application filed under the redesignation, the final determination of whether the applicant has met the ''continuous physical presence'' requirement cannot be made until October 1, 2022, the effective date of this redesignation for Syria. USCIS, however, will issue employment authorization documentation, as appropriate, during the registration period in accordance with 8 CFR 244.5(b).

Why is the Secretary extending the TPS designation for Syria and simultaneously redesignating Syria for TPS through March 31, 2024?

DHS has reviewed country conditions in Syria. Based on the review, including input received from the Department of State (DOS) and other U.S. Government agencies, the Secretary has determined that an 18-month TPS extension is warranted because the ongoing armed conflict and extraordinary and temporary conditions supporting Syria's TPS designation remain. The Secretary has further determined that the conditions support redesignating Syria for TPS under section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C) of the Act and is changing the ''continuous residence'' and ''continuous physical presence'' dates that applicants must meet to be eligible for TPS.

Overview

DHS has conducted a thorough review of country conditions in Syria. The ongoing civil war has resulted in large-scale destruction of infrastructure, mass displacement of civilians, high levels of food insecurity, limited access to water and medical care, and widespread civilian casualties. These impacts have been compounded by the COVID–19 pandemic which has contributed to the further breakdown of the economy and strained an already overburdened healthcare system.

The United Nations (UN) has verified that at least 350,209 identified civilians and combatants were killed between March 2011 and March 2021, including 26,727 women and 27,126 children, but it has warned that this figure ''indicates a minimum verifiable number'' and is an ''undercount of the actual number.'' [11] The Syrian Observatory for Human Rights (SOHR), a UK-based monitoring group with a network of sources on the ground, had documented the deaths of 494,438 people as of June 2021 and said that at least 159,774 civilians had been killed.[12] The group estimated that the actual toll from the war was more than 606,000, saying 47,000 civilians were believed to have died of torture in government-run prisons.[13] Another monitoring group, the Violations Documentation Center, which relies on information from

[8] *See* Extension and Redesignation of Syria for Temporary Protected Status, 86 FR 14946, (Mar. 18, 2021).

[9] INA § 244(b)(1) ascribes this power to the Attorney General. Congress transferred this authority from the Attorney General to the Secretary of Homeland Security. *See* Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135. The Secretary may designate a country (or part of a country) for TPS on the basis of ongoing armed conflict such that returning would pose a serious threat to the personal safety of the country's nationals and habitual residents, environmental disaster (including an epidemic), or extraordinary and temporary conditions in the country that prevent the safe return of the country's nationals. For environmental disaster-based designations, certain other statutory requirements must be met, including that the foreign government must request TPS. A designation based on extraordinary and temporary conditions cannot be made if the Secretary finds that allowing the country's nationals to remain temporarily in the United States is contrary to the U.S. national interest. *Id.,* at § 244(b)(1).

[10] This issue of judicial review is the subject of litigation. *See, e.g., Ramos* v. *Wolf,* 975 F.3d 872 (9th Cir. 2020), *petition for en banc rehearing* filed Nov. 30, 2020 (No. 18–16981); *Saget* v. *Trump,* 375 F. Supp. 3d 280 (E.D.N.Y. 2019).

[11] This count includes ''only those people identifiable by full name, with an established date of death, and who died in an identified governorate'' and was sourced from OHCHR's own data, records maintained by civil society organizations, and information from the Syrian government. UNOHCR, ''Oral update on the extent of conflict-related deaths in the Syrian Arab Republic | OHCHR'' (September 24, 2021), *https://www.ohchr.org/en/statements/2021/09/oral-update-extent-conflict-related-deaths-syrian-arab-republic?LangID=E&NewsID=27531.*

[12] SOHR, ''Total death toll | Over 606,000 people killed across Syria since the beginning of the ''Syrian Revolution'', including 495,000 documented by SOHR (June 1, 2021), *https://www.syriahr.com/en/217360/.*

[13] SOHR, ''Total death toll | Over 606,000 people killed across Syria since the beginning of the ''Syrian Revolution'', including 495,000 documented by SOHR (June 1, 2021), *https://www.syriahr.com/en/217360/.*

activists across the country, had documented 239,251 battle-related deaths, including 145,240 civilians, as of June 2022.[14] Additionally, the ongoing military operations have injured more than 2.1 million Syrian civilians with varying injuries, wounds, and permanent disabilities.[15]

Eleven years of war have inflicted immense suffering on the Syrian people. More than half of Syria's pre-war population of 22 million have either fled the country or are displaced within its borders.[16] Syria remains the world's largest displacement crisis.[17] The number of Syrian IDPs to date is approximately 7 million people.[18]

Harm to civilians has been widespread, but the magnitude of violence has varied greatly by location. Parties to the Syrian conflict killed 1,271 civilians in 2021, including 299 children and 134 women.[19] Both government and opposition forces reportedly engage in indiscriminate attacks through the use of airstrikes, explosives, snipers, and rocket and mortar attacks, killing thousands and leaving many without the means or ability to escape the violence.[20] Since 2021, cities as far north as Idlib, and as far south as Daraa have seen heavy civilian casualties as well as damage to civilian objects.[21]

Multiple actors in the conflict have been accused of targeting civilians and civilian facilities. In January 2022, Russia conducted airstrikes on the Al Arshani Water Pump Station located west of Idlib city, injuring at least one station worker, causing substantial damage to the station's buildings and equipment, and forcing the station's main water pumping pipe temporarily out of service.[22] In February 2022, there were at least six incidents of attacks impacting vital civilian facilities, among them, a school, two markets, a park, and a livestock farm.[23] In April 2022, ISIS claimed responsibility for an attack on civilians gathering for an iftar meal during Ramadan, killing seven people and wounding four.[24] Also in April 2022, Syrian government forces shelled a village in north Idlib countryside, killing at least three students on their way to school.[25] According to the Syrian Civil Defense, Russian and Syrian forces and allied militias have launched 130 air and artillery attacks on northwestern Syria during the first quarter of 2022.[26] These attacks struck civilian homes, public buildings, and service facilities, killing[47] people and wounding more than 100 others.[27]

Mandatory military service has been the law in Syria since 2007.[28] Men from the ages of 18 to 42 are required to serve, and women may enlist voluntarily.[29] Conscripts are required to serve for 18 to 21 months, depending on their level of education.[30] Syria has intermittently declared amnesties for military service evaders to encourage returns, however, ''returnees have found themselves back on conscription lists in as little as seven days, after the government exploited a loophole in the decree,'' thereby rendering the amnesty provisions meaningless.[31] In February 2021, the Syrian regime announced an amendment to the military conscription laws. Under the amended law, those who did not do military service before the age of 43 must pay $8,000, or lose their property without notice or any right to appeal.[32]

The Syrian Democratic Forces and other entities in Syria have also been accused of forced conscription: ''[The Syrian Network for Human Rights (SNHR)] . . . recorded Syrian Democratic Forces kidnapping two children [in January 2022] with the aim of taking them to its training and recruitment camps and forcibly conscripting them . . .'' [33] Further, compulsory recruitment under the ''Law on Mandatory Self-Defense Duty'' was first introduced in 2014 and is confined to the areas of northern and eastern Syria under the control of the Kurdish-led Autonomous Administration.[34] Under this law, conscription is mandatory for all male residents, both Syrian nationals and stateless Kurds, after reaching 18 years old. Syrians from other parts of the country who have resided in the area longer than five years are obligated to join as well.[35]

Syrian children have suffered disproportionately since the start of the conflict. At least 29,661 children have been killed in Syria since March 2011, including 181 due to torture, in addition to 5,036 arrested or forcibly disappeared children.[36] The SNHR estimates that

[14] Violation Documentation Center, ''Monthly statistical on casualties in Syria, June 2022'' (June 2022), *https://scm.bz/en/violations-watch/monthly-statistical-on-casualities-in-syria-june-2022.*

[15] SOHR, ''Total death toll | Over 606,000 people killed across Syria since the beginning of the ''Syrian Revolution'', including 495,000 documented by SOHR (June 1, 2021), *https://www.syriahr.com/en/217360/.*

[16] UNHCR, ''Eleven years on, mounting challenges push many displaced Syrians to the brink'' (March 15, 2022), *https://www.unhcr.org/en-us/news/briefing/2022/3/623055174/eleven-years-mounting-challenges-push-displaced-syrians-brink.html.*

[17] UNHCR, ''Eleven years on, mounting challenges push many displaced Syrians to the brink'' (Mar 15, 2022), *https://www.unhcr.org/en-us/news/briefing/2022/3/623055174/eleven-years-mounting-challenges-push-displaced-syrians-brink.html.*

[18] USAID, ''Syria—Complex Emergency Fact Sheet #4, Fiscal Year (FY) 2022'' (Mar 4, 2022), *https://reliefweb.int/report/syrian-arab-republic/syria-complex-emergency-fact-sheet-4-fiscal-year-fy-2022.*

[19] Syrian Network for Human Rights, ''Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021'' (Jan 21, 2022), *https://snhr.org/wp-content/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf.*

[20] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[21] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[22] Syrian Archive, ''Airstrikes on the Al Arshani Water Pump Station in Idlib'' (February 14, 2022), *https://syrianarchive.org/en/investigations/arshani.*

[23] Syrian Network for Human Rights, ''The Most Notable Human Rights Violations in Syria in February 2022,'' (Mar. 4, 2022), *https://snhr.org/wp-content/uploads/2022/03/M220303E.pdf.*

[24] Syrian Observatory for Human Rights, ''SOHR: Daesh kills 7 Syrians at Ramadan iftar meal'' (Apr 29, 2022), *https://www.syriahr.com/en/249367/.*

[25] Syrian Observatory for Human Rights, ''Regime offensive | Three students killed in regime rocket attack on area in Idlib countryside'' (Apr 4, 2022), *https://www.syriahr.com/en/245693/.*

[26] Euro-Med Monitor, ''Killing 4 children in Syrian regime bombardment may amount to war crime'' (Apr 5, 2022), *https://reliefweb.int/report/syrian-arab-republic/killing-4-children-syrian-regime-bombardment-may-amount-war-crime-enar.*

[27] Euro-Med Monitor, ''Killing 4 children in Syrian regime bombardment may amount to war crime,'' (April 6, 2022), *https://reliefweb.int/report/syrian-arab-republic/killing-4-children-syrian-regime-bombardment-may-amount-war-crime-enar.*

[28] The Tahrir Institute for Middle East Policy, ''TIMEP Brief: Conscription Law'' (Aug 22, 2019), *https://timep.org/reports-briefings/timep-brief-conscription-law/.*

[29] The Tahrir Institute for Middle East Policy, ''TIMEP Brief: Conscription Law'' (Aug 22, 2019), *https://timep.org/reports-briefings/timep-brief-conscription-law/.*

[30] The Tahrir Institute for Middle East Policy, ''TIMEP Brief: Conscription Law'' (Aug 22, 2019), *https://timep.org/reports-briefings/timep-brief-conscription-law/.*

[31] Human Rights Watch, ''Our Lives are Like Death'' (Oct. 2021), *https://www.hrw.org/sites/default/files/media_2021/10/syria1021_web.pdf.*

[32] Human Rights Watch, ''Syrian 'Military Evaders' Face Unlawful Seizure of Property, Assets'' (Feb 9, 2021), *https://www.hrw.org/news/2021/02/09/syrian-military-evaders-face-unlawful-seizure-property-assets.*

[33] Syrian Network for Human Rights, ''143 Arbitrary Arrests/Detentions Documented in Syria in January 2022,'' including 2 children, (Feb. 2, 2022), *https://snhr.org/wp-content/pdf/english/143_Arbitrary_Arrests_Detentions_Documented_in_Syria_in_January_2022_Including_Two_Children_en.pdf.*

[34] European Union Agency for Asylum, ''Persons fearing forced or child recruitment by Kurdish forces,'' (last updated Sept. 2020), *https://euaa.europa.eu/country-guidance-syria/26-persons-fearing-forced-or-child-recruitment-kurdish-forces.*

[35] European Union Agency for Asylum, ''Persons fearing forced or child recruitment by Kurdish forces,'' (last updated Sept. 2020), *https://euaa.europa.eu/country-guidance-syria/26-persons-fearing-forced-or-child-recruitment-kurdish-forces.*

[36] Syrian Network for Human Rights (SNHR). ''On World Children's Day; Tenth Annual Report on Violations against Children in Syria'' (Nov. 20, 2021), *https://reliefweb.int/report/syrian-arab-*

Continued

there are at least 1,374 children currently serving in the Syrian regime forces.[37] Other actors in the conflict are also accused of engaging in forced conscription of children. These include: Hay'at Tahrir al Sham, Syrian Democratic Forces, factions of the Syrian National Army (SNA), Al-Nusra Front, ISIS, as well as Iranian militias or militias supported by Iran.[38] According to the United Nations High Commissioner for Refugees (UNHCR), there are currently at least 2.5 million displaced children in Syria.[39] The United Nations Children's Fund (UNICEF) reported 6.5 million children in need of humanitarian assistance in a March 2022 report.[40]

Human rights abuses continue to be rampant in Syria. One report cites 2,218 cases of arbitrary arrest or detention, including 85 children and 77 women, committed by parties to the conflict and controlling forces in 2021, almost half of which were attributed to the Assad regime.[41] The same report notes that at least 104 individuals were documented as dying as a result of torture in 2021 at the hands of Syrian regime forces, Syrian Democratic Forces, Hay'at Tahrir al Sham, factions of the Syrian National Army as well as other parties to the conflict.[42] Furthermore, individuals returning to Syria have reported that the Syrian government or its affiliated militias subjected them or their family members to arbitrary arrest or detention, torture and other cruel, inhuman or degrading treatment, kidnappings, and extrajudicial killings after their return to Syria.[43] Human Rights Watch has reported ''21 cases of arrest and arbitrary detention . . .'' 13 cases of torture, 3 kidnappings, 5 extrajudicial killings, and 17 enforced disappearances between 2017 and 2021 among refugees who had returned to Syria from Jordan and Lebanon.'' [44]

After 11 years of conflict, Syria's healthcare system has suffered gravely. As of March 2022, Physicians for Human Rights has documented and verified 601 attacks hitting at least 350 health facilities since the start of the conflict.[45] A January 2022 report states that more than 50% of healthcare workers are estimated to have left the country in the last decade.[46] Out of the almost 1,800 available public health centers, 45% were not fully functioning as of September 2021, at a time when the Syrian people needed them the most amidst the COVID–19 pandemic.[47] Seven medical personnel were killed in Syria in 2021 at the hands of parties to the conflict and controlling forces in Syria.[48] The COVID–19 pandemic has further exacerbated shortcomings in an already weakened healthcare system. The UN identifies Syria as one of the countries in the Middle East most severely affected by the COVID–19 pandemic, particularly as low vaccine availability, vaccine hesitancy, infections among frontline health workers, high transmission rates in IDP camps, oxygen supply shortages, inadequate testing materials, and limited cold chain and technical capacity hamper infection prevention, monitoring, and response efforts.[49] As of March 2022, 11.4% of the total population had received at least one dose of the COVID–19 vaccine, and only 6.6% were fully vaccinated.[50]

According to the World Food Program (WFP), at least 12.4 million Syrians, out of an estimated population of 16 million, are food insecure.[51] This 2021 estimate reflects an increase of 3.1 million food insecure people in one year.[52] Moreover, according to the same report, more than 600,000 children are chronically malnourished.[53] The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) reports that routine shortages in basic goods, including bread and fuel, have become commonplace and the number of people in need of humanitarian assistance increased by 21% in 2021—reaching a total of 13.4 million people, with 1.48 million in ''catastrophic'' need.[54] The price of the national food basket [55] increased by 24% from February to March 2022, the greatest monthly increase and the highest price recorded since tracking began in 2013.[56]

In 2021, Syria was impacted by several climate and natural resource-related shocks. Erratic rainfall as well as historically low water levels in the Euphrates River have reduced access to water for drinking and domestic use for over five million people.[57] In addition,

republic/world-children-s-day-tenth-annual-report-violations-against-children.

[37] Syrian Network for Human Rights (SNHR). ''On World Children's Day; Tenth Annual Report on Violations against Children in Syria'' (Nov. 20, 2021), *https://reliefweb.int/report/syrian-arab-republic/world-children-s-day-tenth-annual-report-violations-against-children.*

[38] Syrian Network for Human Rights (SNHR). ''On World Children's Day; Tenth Annual Report on Violations against Children in Syria'' (Nov. 20, 2021), *https://reliefweb.int/report/syrian-arab-republic/world-children-s-day-tenth-annual-report-violations-against-children.*

[40] UNICEF, ''Whole of Syria Humanitarian Situation Report: March 2022,'' (May 15, 2022), *https://reliefweb.int/report/syrian-arab-republic/unicef-whole-syria-humanitarian-situation-report-march-2022.*

[41] Syrian Network for Human Rights, ''Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021'' (Jan 21, 2022), *https://snhr.org/wp-content/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf.*

[42] Syrian Network for Human Rights, ''Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021'' (Jan 21, 2022), *https://snhr.org/wp-content/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf.*

[43] Human Rights Watch. ''Our Lives are Like Death'' (Oct. 2021), *https://www.hrw.org/sites/default/files/media_2021/10/syria1021_web.pdf.*

[44] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[45] International Rescue Committee, ''11 years of violence against health care in Syria'' (Mar 31, 2022), *https://www.rescue.org/resource/11-years-violence-against-health-care-syria.*

[46] UNOCHA, ''Situation Report #35: Recent Developments in Northwest Syria and RAATA'' (Jan 2022), *https://www.humanitarianresponse.info/en/operations/stima/document/situation-report-35-recent-developments-northwest-syria-and-raata-january.*

[47] International Rescue Committee, ''11 years of violence against health care in Syria'' (Mar 31, 2022), *https://www.rescue.org/resource/11-years-violence-against-health-care-syria.*

[48] Syrian Network for Human Rights, ''Eleventh Annual Report: The Most Notable Human Rights Violations in Syria in 2021'' (Jan 21, 2022), *https://snhr.org/wp-content/pdf/english/Eleventh_Annual_Report_The_Most_Notable_Human_Rights_Violations_in_Syria_in_2021_en.pdf.*

[49] USAID, ''Syria—Complex Emergency Fact Sheet #4, Fiscal Year (FY) 2022'' (Mar 4, 2022), *https://reliefweb.int/report/syrian-arab-republic/syria-complex-emergency-fact-sheet-4-fiscal-year-fy-2022.*

[50] World Health Organization, ''Monthly COVID–19 Bulletin: March 2022,'' (Mar. 26, 2022), *https://reliefweb.int/sites/reliefweb.int/files/resources/monthly_covid-19_bulletin-march_2022.pdf.*

[51] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[52] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[53] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[54] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[55] The UN's Food and Agriculture Organization (FAO) issues a monthly food price index, a measure of change in international prices of a basket of food commodities. *See* United Nations, ''Global Issues: Food'' (last visited 6/27/2022), *https://www.un.org/en/global-issues/food.* A national food basket is a group of essential food commodities. In Syria, the food basket is set at a group of dry goods providing 2,060 kcal a day for a family of five during a month. The basket includes 37 kg bread, 19 kg rice, 19 kg lentils, 5 kg of sugar, and 7 liters of vegetable oil. *See* World Food Program, ''Syria Country Office Market Price Watch Bulletin Issue 88, March 2022, (Apr. 27, 2022), *https://reliefweb.int/report/syrian-arab-republic/syria-country-office-market-price-watch-bulletin-issue-88-march-2022.*

[56] UNICEF, ''Whole of Syria Humanitarian Situation Report: March 2022,'' (May 15, 2022), *https://reliefweb.int/report/syrian-arab-republic/unicef-whole-syria-humanitarian-situation-report-march-2022.*

[57] UNOCHA, ''2022 Humanitarian Needs Overview: Syrian Arab Republic'' (Feb 22, 2022), *https://reliefweb.int/report/syrian-arab-republic/2022-humanitarian-needs-overview-syrian-arab-republic-february-2022.*

this has triggered substantial harvest and income losses, decreased hydroelectricity generation, and increased water-borne illnesses.[58] Northern Syria is experiencing severe water shortages as a result of higher-than-average temperatures.[59] Of 1,087 UNICEF beneficiaries surveyed across Syria in February and March 2022, 15% reported water availability once a week or less and 19% reported no water availability.[60]

In October 2021, the World Bank estimated that the Syrian economy had shrunk by more than 60% since 2010.[61] Between October 2019 and October 2021, the Syrian pound lost 82% of its value against the dollar.[62] UNOCHA estimated that, in 2021, 90% of the population lived below the poverty line.[63] An April 2022 World Bank report indicates that ''the continued depreciation of the local currency has led to rampant inflation, worsening already high food insecurity and pushing more people into poverty.'' [64] A UN report from April 2022 estimates that 14.6 million people are in need of humanitarian assistance, which is a 9% increase from the previous year.[65]

In summary, the ongoing conflict, compounded by economic downturn, food insecurity, water insecurity, the COVID–19 pandemic, a weakened healthcare system, weakened civilian infrastructure, human rights violations and abuses, violations of the law of armed conflict, forced conscription and mass displacement have an enormous human cost for the Syrian people.

Based upon this review and after consultation with appropriate U.S. Government agencies, the Secretary has determined that:

- The conditions supporting Syria's designation for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continues to be an ongoing armed conflict in Syria and, due to such conflict, requiring the return to Syria of Syrian nationals (or individuals having no nationality who last habitually resided in Syria) would pose a serious threat to their personal safety. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A).
- There continue to be extraordinary and temporary conditions in Syria that prevent Syrian nationals (or individuals having no nationality who last habitually resided in Syria) from returning to Syria in safety, and it is not contrary to the national interest of the United States to permit Syrian TPS beneficiaries to remain in the United States temporarily. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of Syria for TPS should be extended for an 18-month period, from October 1, 2022, through March 31, 2024. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- Due to the conditions described above, Syria should be simultaneously extended and redesignated for TPS effective October 1, 2022, through, 2024. *See* section 244(b)(1)(A) and (C) and (b)(2) of the Act, 8 U.S.C. 1254a(b)(1)(A) and (C) and (b)(2).
- The Secretary has determined that TPS applicants must demonstrate that they have continuously resided in the United States since July 28, 2022.
- Initial TPS applicants under the redesignation must demonstrate that they have been continuously physically present in the United States since October 1, 2022, the effective date of the redesignation of Syria for TPS.
- There are approximately 6,448 current Syria TPS beneficiaries who are expected to be eligible to re-register for TPS under the extension.
- It is estimated that approximately 960 additional individuals may be eligible for TPS under the redesignation of Syria. This population includes Syrian nationals in the United States in nonimmigrant status or without immigration status.

Notice of the Designation of Syria for TPS

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate U.S. Government agencies, the statutory conditions supporting Syria's designation for TPS on the basis of ongoing armed conflict and extraordinary and temporary conditions are met. *See* INA section 244(b)(1)(A), 8 U.S.C. 1254a(b)(1)(A) and INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C). On the basis of this determination, I am simultaneously extending the existing designation of TPS for Syria for 18 months, from October 1, 2022, through March 31, 2024, and redesignating Syria for TPS for the same 18-month period. *See* INA section 244(b)(1)(A), (b)(1)(C) and (b)(2); 8 U.S.C. 1254a(b)(1)(A), (b)(1)(C), and (b)(2).

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

Eligibility and Employment Authorization for TPS

Required Application Forms and Application Fees To Register for TPS

To register for TPS based on the designation of Syria, you must submit a Form I–821, Application for Temporary Protected Status, and pay the filing fee (or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver). You may be required to pay the biometric services fee. If you can demonstrate an inability to pay the biometric services fee, you may request to have the fee waived. Please see additional information under the ''Biometric Services Fee'' section of this notice.

TPS beneficiaries are authorized to work in the United States. You are not required to submit Form I–765 or have an EAD, but see below for more information if you want to work in the United States.

Individuals who have a Syria TPS application (Form I–821) that was still pending as of August 1, 2022 do not need to file the application again. If USCIS approves an individual's Form I–821, USCIS will grant the individual TPS through March 31, 2024.

For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *uscis.gov/tps.* Fees for the Form I–821, the Form I–765, and biometric services are also described in 8 CFR 103.7(b)(1)(i).

How can TPS beneficiaries obtain an Employment Authorization Document (EAD)?

Every employee must provide their employer with documentation showing that they have the legal right to work in the United States. TPS beneficiaries are

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[58] UNOCHA, ''2022 Humanitarian Needs Overview: Syrian Arab Republic'' (Feb 22, 2022), *https://reliefweb.int/report/syrian-arab-republic/2022-humanitarian-needs-overview-syrian-arab-republic-february-2022.*

[59] International Rescue Committee, ''Crisis in Syria: Economic crisis compounds over a decade of war'' (Mar. 15, 2022), *https://www.rescue.org/article/crisis-syria-economic-crisis-compounds-over-decade-war.*

[60] UNICEF, ''Whole of Syria Humanitarian Situation Report: March 2022,'' (May 15, 2022), *https://reliefweb.int/report/syrian-arab-republic/unicef-whole-syria-humanitarian-situation-report-march-2022.*

[61] Human Rights Watch, ''Our Lives Are Like Death'' (Oct. 2021), *https://www.hrw.org/sites/default/files/media_2021/10/syria1021_web.pdf.*

[62] International Rescue Committee, ''Crisis in Syria: Economic crisis compounds over a decade of war'' (Mar. 15, 2022), *https://www.rescue.org/article/crisis-syria-economic-crisis-compounds-over-decade-war*

[63] Human Rights Watch, ''Syria: Events of 2021'' (Jan. 2022), *https://www.hrw.org/world-report/2022/country-chapters/syria.*

[64] World Bank. ''Macro Poverty Outlook for Syria: April 2022'' *(*April 2022), *http://documents.worldbank.org/curated/en/099039004242232398/IDU0107dbcc10f799044b70bc070ac75483e6628.*

[65] UNHCR, ''Syria: UNHCR Operational Update, April 2022'' (May 12, 2022), *https://reliefweb.int/report/syrian-arab-republic/syria-unhcr-operational-update-april-2022.*

eligible to obtain an EAD, which proves their legal right to work. Those who want to obtain an EAD must file a Form I–765, Application for Employment Authorization, and pay the Form I–765 fee (or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver). TPS applicants may file this form along with their TPS application, or at a later date, provided their TPS application is still pending or has been approved. Beneficiaries with a Syrian TPS-related Form I–765 that was still pending as of August 1, 2022 do not need to file the application again. If USCIS approves a pending TPS-related Form I–765, USCIS will issue the individual a new EAD that will be valid through the same date.

Refiling an Initial TPS Registration Application After Receiving a Denial of a Fee Waiver Request

If you receive a denial of a fee waiver request, you must refile your Form I–821 for TPS along with the required fees during the registration period, which extends until March 31, 2024. You may also file for your Employment Authorization Document on Form I–765 with payment of the fee along with your TPS application or at any later date you decide you want to request an EAD during the registration period.

Filing Information

USCIS offers the option to applicants for TPS under Syria's designation to file Form I–821 and related requests for EADs online or by mail. When filing a TPS application, applicants can also request an EAD by submitting a completed Form I–765, Request for Employment Authorization, with their Form I–821.

Online filing: Form I–821 and I–765 are available for concurrent filing online.[66] To file these forms online, you must first create a USCIS online account.[67]

Mail filing: Mail your application for TPS to the proper address in Table 1.

Table 1-Mailing Addresses

Mail your completed Form I–821, Application for Temporary Protected Status; Form I–765, Application for Employment Authorization; Form I–912, Request for Fee Waiver (if applicable); and supporting documentation to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If . . .	Mail to . . .
You are using the U.S. Postal Service (USPS)	USCIS, Attn: TPS Syria, P.O. Box 6943, Chicago, IL 60680–6943.
You are using FedEx, UPS, or DHL	USCIS, Attn: TPS Syria (Box 6943), 131 S Dearborn 3rd Floor, Chicago, IL 60603–5517.

If you were granted TPS by an immigration judge (IJ) or the Board of Immigration Appeals (BIA) and you wish to request an EAD, please mail your Form I–765 application to the appropriate mailing address in Table 1. When you are requesting an EAD based on an IJ/BIA grant of TPS, please include a copy of the IJ or BIA order granting you TPS with your application. This will help us verify your grant of TPS and process your application.

Supporting Documents

The filing instructions on the Form I–821 list all the documents needed to establish eligibility for TPS. You may also find information on the acceptable documentation and other requirements for applying (that is, registering) for TPS on the USCIS website at *uscis.gov/tps* under ''Syria.''

Travel

TPS beneficiaries may also apply for and be granted travel authorization as a matter of discretion. You must file for travel authorization if you wish to travel outside of the United States. If granted, travel authorization gives you permission to leave the United States and return during a specific period. To request travel authorization, you must file Form I–131, Application for Travel Document, available at *www.uscis.gov/i-131.* You may file Form I–131 together with your Form I–821 or separately. When filing the Form I–131, you must:

- Select Item Number 1.d. in Part 2 on the Form I–131; and
- Submit the fee for the Form I–131, or request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver.

If you are filing Form I–131 together with Form I–821, send your forms to the address listed in Table 1. If you are filing Form I–131 separately based on a pending or approved Form I–821, send your form to the address listed in Table 2 and include a copy of Form I–797 for the approved or pending Form I–821.

TABLE 2—MAILING ADDRESSES

If you are . . .	Mail to . . .
Filing Form I–131 together with a Form I–821, Application for Temporary Protected Status.	The address provided in Table 1.
Filing Form I–131 based on a pending or approved Form I–821, and you are using the U.S. Postal Service (USPS): You must include a copy of the receipt notice (Form I–797C) showing we accepted or approved your Form I–821.	USCIS, Attn: I–131 TPS, P.O. Box 660167, Dallas, TX 75266–0867.
Filing Form I–131 based on a pending or approved Form I–821, and you are using FedEx, UPS, or DHL: You must include a copy of the receipt notice (Form I–797C) showing we accepted or approved your Form I–821.	USCIS, Attn: I–131 TPS, 2501 S State Hwy. 121 Business, Ste. 400, Lewisville, TX 75067.

[66] Find information about online filing at ''Forms Available to File Online,'' *https://www.uscis.gov/file-online/forms-available-to-file-online.*

[67] *https://myaccount.uscis.gov/users/sign_up.*

Biometric Services Fee for TPS

Biometrics (such as fingerprints) are required for all applicants 14 years of age and older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay the biometric services fee, you may request a fee waiver, which you may submit on Form I–912, Request for Fee Waiver. For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *uscis.gov/tps.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured. For additional information on the USCIS biometric screening process, please see the USCIS Customer Profile Management Service Privacy Impact Assessment, available at *dhs.gov/privacy.*

General Employment-Related Information for TPS Applicants and Their Employers

How can I obtain information on the status of my TPS application and EAD request?

To get case status information about your TPS application, as well as the status of your TPS-based EAD request, you can check Case Status Online at *uscis.gov,* or visit the USCIS Contact Center at *uscis.gov/contactcenter.* If your Form I–765 has been pending for more than 90 days, and you still need assistance, you may ask a question about your case online at *egov.uscis.gov/e-request/Intro.do* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

Am I eligible to receive an automatic extension of my current EAD through September 30, 2023, using this Federal Register notice?

Yes. Regardless of your country of birth, provided that you currently have a Syria TPS-based EAD that has the notation A–12 or C–19 under Category and a ''Card Expires'' date of September 30, 2022, March 31, 2021, September 30, 2019, or March 31, 2018, this **Federal Register** notice automatically extends your EAD through September 30, 2023. Although this **Federal Register** notice automatically extends your EAD through September 30, 2023, you must re-register timely for TPS in accordance with the procedures described in this **Federal Register** notice to maintain your TPS and employment authorization.

When hired, what documentation may I show to my employer as evidence of identity and employment authorization when completing Form I–9?

You can find the Lists of Acceptable Documents on the last page of Form I–9, Employment Eligibility Verification, as well as the Acceptable Documents web page at *uscis.gov/i-9-central/acceptable-documents.* Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any document from List A (which provides evidence of both identity and employment authorization) or one document from List B (which provides evidence of your identity) together with one document from List C (which provides evidence of employment authorization), or you may present an acceptable receipt as described in the Form I–9 Instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I–9 on the I–9 Central web page at *uscis.gov/I–9Central.* An EAD is an acceptable document under List A. See the section ''How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?'' of this **Federal Register** notice for further information. If your EAD states A–12 or C–19 under Category and has a Card Expires date of September 30, 2022, March 31, 2021, September 30, 2019, or March 31, 2018, it has been extended automatically by virtue of this **Federal Register** notice and you may choose to present your EAD to your employer as proof of identity and employment eligibility for Form I–9 through September 30, 2023, unless your TPS has been withdrawn or your request for TPS has been denied. Your country of birth notated on the EAD does not have to reflect the TPS designated country of Syria for you to be eligible for this extension.

What documentation may I present to my employer for Form I–9 if I am already employed but my current TPS-related EAD is set to expire?

Even though we have automatically extended your EAD, your employer is required by law to ask you about your continued employment authorization. Your employer may need to re-inspect your automatically extended EAD to check the ''Card Expires'' date and Category code if your employer did not keep a copy of your EAD when you initially presented it. Once your employer has reviewed the ''Card Expires'' date and Category code, your employer should update the EAD expiration date in Section 2 of Form I–9. See the section ''What updates should my current employer make to Form I–9 if my EAD has been automatically extended?'' of this **Federal Register** notice for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I–9 and to show that USCIS has automatically extended your EAD through September 30, 2023, but you are not required to do so. The last day of the automatic EAD extension is September 30, 2023. Before you start work on October 1, 2023, your employer is required by law to reverify your employment authorization on Form I–9. By that time, you must present any document from List A or any document from List C on Form I–9 Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 instructions to reverify employment authorization.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

If I have an EAD based on another immigration status, can I obtain a new TPS-based EAD?

Yes, if you are eligible for TPS, you can obtain a new TPS-based EAD, regardless of whether you have an EAD or work authorization based on another immigration status. If you want to obtain a new TPS-based EAD valid through March 31, 2024, then you must file Form I–765, Application for Employment Authorization, and pay the associated fee (unless USCIS grants your fee waiver request).

Can my employer require that I provide any other documentation such as evidence of my status or proof of my Syrian citizenship or a Form I–797C showing that I registered for TPS for Form I–9 completion?

No. When completing Form I–9, employers must accept any documentation you choose to present from the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Employers may not request proof of Syrian citizenship or proof of registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If

you present an EAD that USCIS has automatically extended, employers should accept it as a valid List A document so long as the EAD reasonably appears to be genuine and to relate to you. Refer to the ''Note to Employees'' section of this **Federal Register** notice for important information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Form I–9 using my automatically extended EAD for a new job?

When using an automatically extended EAD to complete Form I–9 for a new job before October 1, 2023:

1. For Section 1, you should:

a. Check ''An alien authorized to work until'' and enter September 30, 2023, as the ''expiration date''; and

b. Enter your USCIS number or A-Number where indicated. (Your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix.)

2. For Section 2, employers should:

a. Determine if the EAD is auto-extended by ensuring it is in category A–12 or C–19 and has a ''Card Expires'' date of September 30, 2022, March 31, 2021, September 30, 2019, or March 31, 2018;

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write September 30, 2023, as the expiration date.

Before the start of work on October 1, 2023, employers must reverify the employee's employment authorization on Form I–9.

What updates should my current employer make to Form I–9 if my EAD has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and USCIS has now automatically extended your EAD, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. Your employer should determine if your EAD is automatically extended by ensuring that it contains Category A–12 or C–19 on the front of the card and has a ''Card Expires'' date of September 30, 2022, March 31, 2021, September 30, 2019, or March 31, 2018. The employer may not rely on the country of birth listed on the card to determine whether you are eligible for this extension.

If your employer determines that USCIS has automatically extended your EAD, your employer should update Section 2 of your previously completed Form I–9 as follows:

1. Write EAD EXT and September 30, 2023, as the last day of the automatic extension in the Additional Information field; and

2. Initial and date the correction.

Note: This is not considered a reverification. Employers do not reverify the employee until either the one-year automatic extension has ended, or the employee presents a new document to show continued employment authorization, whichever is sooner. By October 1, 2023, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization on Form I–9.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee by entering the number from the Document Number field on Form I–9 into the document number field in E-Verify. Employers should enter September 30, 2023, as the expiration date for an EAD that has been extended under this **Federal Register** notice

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiring'' alert for an automatically extended EAD?

E-Verify automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. Before this employee starts work on October 1, 2023, you must reverify their employment authorization on Form I–9. Employers may not use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls in English, Spanish and many other languages. Employees or job applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based on citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt as described in the Form I–9 Instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Form I–9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any adverse action against an employee because of a TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot confirm an employee's employment eligibility. An employer may terminate employment based on a

case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *justice.gov/ier* and the USCIS and E-Verify websites at *uscis.gov/i-9-central* and *e-verify.gov*.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

For Federal purposes, TPS beneficiaries presenting an automatically extended EAD referenced in this **Federal Register** notice do not need to show any other document, such as an I–797C Notice of Action or this **Federal Register** notice, to prove that they qualify for this extension. While Federal Government agencies must follow the guidelines laid out by the Federal Government, State and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, State, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary, show you are authorized to work based on TPS or other status, or may be used by DHS to determine if you have TPS or another immigration status. Examples of such documents are:

- Your current EAD with a TPS category code of A12 or C19, even if your country of birth noted on the EAD does not reflect the TPS designated country of Syria;
- Your Form I–94, Arrival/Departure Record;
- Your Form I–797, Notice of Action, reflecting approval of your Form I–765; or
- Form I–797, Notice of Action, reflecting approval or receipt of a past or current Form I–821, if you received one from USCIS.

Check with the government agency regarding which document(s) the agency will accept. Some benefit-granting agencies use the SAVE program to confirm the current immigration status of applicants for public benefits.

While SAVE can verify when an individual has TPS, each agency's procedures govern whether they will accept an unexpired EAD, Form I–797, or Form I–94, Arrival/Departure Record. If an agency accepts the type of TPS-related document you are presenting, such as an EAD, the agency should accept your automatically extended EAD, regardless of the country of birth listed on the EAD. It may assist the agency if you:

a. Present the agency with a copy of the relevant **Federal Register** notice showing the extension of TPS-related documentation in addition to your recent TPS-related document with your A-Number, USCIS number, or Form I–94 number;

b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and

c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to get a final SAVE response verifying your TPS.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but occasionally verification can be delayed. You can check the status of your SAVE verification by using CaseCheck at *save.uscis.gov/casecheck/*. CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number (A-Number, USCIS number, or Form I–94 number) or Verification Case Number. If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted on or will act on a SAVE verification and you do not believe the SAVE response is correct, the SAVE website, *www.uscis.gov/save,* has detailed information on how to make corrections or update your immigration record, make an appointment, or submit a written request to correct records.

[FR Doc. 2022–16508 Filed 7–29–22; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7060–N–04]

60-Day Notice of Proposed Information Collection: Evaluation of Moving to Work Cohort 4 Landlord Incentives, OMB Control No.: 2528-New Collection

AGENCY: Office of the Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES:

Comments Due Date: September 30, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210 Washington, DC 20410–5000; telephone 202–402–5535 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–5000; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Evaluation of Moving to Work Cohort 4 Landlord Incentives.

OMB Approval Number: Pending.

Type of Request: New collection.

Form Number: N/A.

Description of the need for the information and proposed use: The Office of Policy Development and Research at the Department of Housing and Urban Development (HUD) is proposing the collection of information for the Evaluation of Moving to Work Cohort 4 Landlord Incentives.

Congress authorized HUD in 2016 to add 100 PHAs to the Moving to Work Demonstration and mandated that HUD use the expansion to test the impact of specific policies intended to improve the efficacy of PHA programs. The Moving to Work Cohort 4 Landlord Incentives will investigate whether offering incentives to landlords to participate in the Housing Choice Voucher (HCV) program will increase the number of participating landlords and improve the lease-up rate of households with a housing choice voucher.

This **Federal Register** Notice provides an opportunity to comment on the information collection for the Evaluation of Moving to Work Cohort 4 Landlord Incentives.

After OMB approval of the Paperwork Reduction Act package, Abt Associates will conduct the research over a 3-year period, including the following: conduct a baseline web-based survey of sampled PHAs, baseline site interviews with PHA staff, phone interviews with PHA staff, a follow-up web survey with PHA staff, follow-up site visits at PHA locations, and interviews with landlords in sampled cities.

Estimated Number of Respondents: 1,093.

Estimated Time per Response: .75 hours (average).

Frequency of Response: Once annually.

Estimated Total Annual Burden Hours: 301.6.

The average hourly rate for Landlords ($35.20) is based on the average hourly rates for Property, Real Estate, and Community Association Managers (Source: Bureau of Labor Statistics, May 2020 National Occupational Employment and Wage Estimates.) The average hourly rate for PHA staff ($54.96) is based on the average employer costs for State and Local Government employees (Source: Bureau of Labor Statistics, December 2021 Employer Costs for Employee Compensation.)

Respondent's Obligation: Voluntary.

Respondents: Landlords and Property Managers. PHA Staff Members.

Legal Authority: The collection of information is conducted under Title 12, United States Code, Section 1701z and Section 3507 of the Paperwork Reduction Act of 1995, 44, U.S.C., 35, as amended.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hours per response	Annual burden hours	Hourly cost per response	Cost
Baseline web survey	145	1	48.3	0.5	24.2	$54.96	$1,328.20
Baseline site visit interviews	116	1	38.7	1	38.7	54.96	2,125.12
Phone interviews	87	1	29	0.5	14.5	54.96	796.92
Follow-up web survey ..	145	1	48.3	0.5	24.2	54.96	1,328.20
Follow-up site visit interviews	200	1	66.7	1	66.7	54.96	3,664.00
Landlord Interviews	400	1	133.3	1	133.3	35.20	4,693.33
Total	*1,093*	.....	364.3	.....	301.6	.....	*13,935.77*

Note: Total burden annualized over 3-year period, anticipated November 2022–November 2025.

The average hourly rate for Landlords ($35.20) is based on the average hourly rates for Property, Real Estate, and Community Association Managers (Source: Bureau of Labor Statistics, May 2020 National Occupational Employment and Wage Estimates.)

The average hourly rate for PHA staff ($54.96) is based on the average employer costs for State and Local Government employees (Source: Bureau of Labor Statistics, December 2021 Employer Costs for Employee Compensation.)

B. Solicitation of Public Comment

This notice solicits comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35 and Title 42 U.S.C. 5424 note, title 13 U.S.C. 8(b), and Title 12, U.S.C. section 1701z–1.

Todd M. Richardson,

General Deputy Assistant Secretary for Policy Development and Research.

[FR Doc. 2022–16428 Filed 7–29–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0114; Docket ID BOEM–2017–0016]

Agency Information Collection Activities; Oil and Gas Production Requirements in the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) is proposing through an information collection request (ICR) to renew Office of Management and Budget (OMB) information collection control number 1010–0114 with revisions.

DATES: Public comments must be received by BOEM on or before September 30, 2022.

ADDRESSES: Send your comments on this ICR by mail or commercial delivery service to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB Control Number 1010–0114 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Contact Anna Atkinson by email at *anna.atkinson@boem.gov,* or by telephone at 703–787–1025. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside of the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR and its related documents by searching the docket number BOEM–2017–0016 at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

BOEM is soliciting comments on the proposed ICR described below. BOEM is especially interested in public comments addressing the following issues: (1) is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure that this information is processed and used in a timely manner; (3) is the burden estimate accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments submitted in response to this notice are a matter of public record. BOEM will include or summarize each comment in its ICR to OMB for approval of this information collection. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available at any time. Even if BOEM withholds your information in the context of this ICR, your submission is subject to the Freedom of Information Act (FOIA). If your submission is requested under the FOIA, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies. Such a determination will be made in accordance with the Department of the Interior's (DOI) FOIA regulations and applicable law.

In order for BOEM to consider withholding from disclosure your personally identifying information, you must identify, in a cover letter, any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence of the disclosure of information, such as embarrassment, injury, or other harm.

Note that BOEM will make available for public inspection all comments, in their entirety, submitted by organizations and businesses or by individuals identifying themselves as representatives of organizations or businesses.

BOEM protects proprietary information in accordance with FOIA (5 U.S.C. 552), DOI's implementing regulations (43 CFR part 2), and 30 CFR parts 550 and 552 promulgated pursuant to the Outer Continental Shelf Lands Act (OCS) Lands Act (43 U.S.C. 1352(c)).

Title of Collection: ''30 CFR part 550, subpart A, General, and Subpart K, Oil and Gas Production in the Outer Continental Shelf.''

Abstract: This ICR addresses regulations under 30 CFR part 550, subparts A and K, which deal with regulatory requirements of oil, gas, and sulfur operations on the OCS. This request also covers the related notices to lessees and operators (NTLs) that BOEM issues to clarify and provide guidance on some aspects of its regulations, and forms BOEM–0127, BOEM–0140, BOEM–1123, and BOEM–1832.

The OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of the OCS and all operations conducted under a lease. Leasing on the OCS must balance orderly energy resource development with protection of the human, marine, and coastal environments; ensure the public a fair return on the resources of the OCS; and preserve and maintain free enterprise competition.

BOEM uses the information collected under these regulations to ensure that leasing and operations on the OCS are carried out in a safe and environmentally sound manner, do not interfere with the rights of other users on the OCS, and balance the protection and development of OCS resources. Specifically, BOEM uses the information collected to:

- Determine the capability of a well to produce oil or gas in paying quantities or to determine the possible need for additional wells resulting in minimum royalty status on a lease.
- Provide lessees and operators greater flexibility to comply with regulatory requirements through approval of alternative equipment or procedures or to depart from regulatory requirements, if they demonstrate equal or better compliance with the appropriate performance standards.
- Ensure that subsurface storage of natural gas does not unduly interfere with development and production operations under existing leases.
- Determine if an application for a right-of-use and easement grant complies with the OCS Lands Act, other applicable laws, and BOEM regulations, and does not unreasonably interfere with the operations of any other lessee.
- Provide for orderly development of oil and gas resources while protecting the environment.
- Determine the appropriateness of disqualification of a lessee or operator based on performance.
- Ascertain if circumstances exist which warrant cancellation of leases.
- Ensure the protection of any discovered archaeological resources.
- Regulate production rates from sensitive reservoirs based on information submitted on Form BOEM–0127, ''Sensitive Reservoir Information (SRI) Report.'' BOEM engineers and geologists use the information for rate control and reservoir studies. The form requests general information about the reservoir, the company, volumetric data, and fluid analysis and production data.
- Manage reservoirs based on information submitted on Form BOEM–0140, ''Bottomhole Pressure Survey Report,'' in order to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest. The form requests information about the well and operator; test data information such as shut-in time, bottomhole temperature, kelly bushing elevation; and bottomhole

pressure points that consist of measured depths, true vertical depths, pressures, and pressure gradients.

• Record the designation of an operator through Form BOEM–1123, ''Designation of Operator,'' authorized to act on behalf of the lessee and any operating rights owner to fulfill their obligations under the OCS Lands Act and implementing regulations. The form also is used to record the local agent empowered to receive notices and comply with regulatory orders issued. This form requires the respondent to submit general information such as lease number, name, address, company number of designated operator, and signature of the authorized representative of the lessee.

• Provide operator notice of violations through Form BOEM–1832, ''Notification of Incidents of Noncompliance [INC].'' The BOEM issues this form to the operator. The operator corrects the INCs included on the form, signs to confirm corrective action has been taken, and returns the form to BOEM.

OMB Control Number: 1010–0114.

Form Number:

• BOEM–0127, ''Sensitive Reservoir Information (SRI) Report;''

• BOEM–0140, ''Bottomhole Pressure Survey Report;''

• BOEM–1123, ''Designation of Operator;'' and

• BOEM–1832, ''Notification of Incidents of Noncompliance.''

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Federal oil, gas, or sulfur lessees and operators.

Total Estimated Number of Annual Responses: 5,621 responses.

Total Estimated Number of Annual Burden Hours: 27,849 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: On occasion, monthly.

Total Estimated Annual Non-Hour Burden Cost: $165,492.

Estimated Reporting and Recordkeeping Hour Burden: The current annual burden for this collection is 18,323 hours and 5,302 responses. BOEM proposes to increase the annual burden to 27,849 hours and 5,621 responses. BOEM conducted public outreach where industry recommended increasing the numbers for static bottomhole pressure surveys and sensitive reservoir information reports. Based on industry recommendations, BOEM is asking OMB for approval of an additional 9,526 annual burden hours and 319 responses.

The following table details the individual components and respective hour burden estimates of this ICR.

BURDEN BREAKDOWN

Citation 30 CFR 550 subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
Authority and Definition of Terms				
104; 181; Form BOEM–1832.	Appeal orders or decisions; appeal INCs; request hearing due to cancellation of lease.	Exempt under 5 CFR 1320.4(a)(2), (c)		0
Performance Standards				
115; 116	Request determination of well producibility; make available or submit data and information; notify BOEM of test.	5	90 responses	450
119	Apply for subsurface storage of gas; sign storage agreement	10	3 applications	30
Subtotal			93 responses	480 hours
Cost Recovery Fees				
125; 126; 140	Cost Recovery Fees; confirmation receipt etc.; verbal approvals and written request to follow. Includes request for refunds.	Cost Recovery Fees and related items are covered individually throughout this subpart.		0
Designation of Operator				
143	Report change of name, address, etc	Not considered information collection under 5 CFR 1320.3(h)(1).		0
143(a–c); 144; Form BOEM–1123.	Submit designation of operator (Form BOEM–1123—form takes 30 minutes); report updates; notice of termination; submit designation of agent. Request exception. NO FEE.	1	2,584 forms	2,584
143(a–d); 144; Form BOEM–1123.	Change designation of operator (Form BOEM–1123—form takes 30 minutes); report updates; notice of termination; submit designation of agent; include *pay.gov* confirmation receipt. Request exception.	1	930 forms	930
	SERVICE FEE	$175 fee × 930 = $162,750		
186(a)(3)	Apply for user account in TIMS (electronic/digital form submittals)	Not considered information collection under 5 CFR 1320.3(h)(1).		0
Subtotal			3,514 responses	3,514
			$162,750 non-hour cost burden	
Compliance				
101; 135; 136; Form BOEM–1832.	Submit response and required information for INC, probation, or revocation of operating status. Notify when violations corrected.	2	94 submissions	188

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
	Request waiver of 14-day response time or reconsideration	1	1	1
135; 136	Request reimbursement for services provided to BOEM representatives during reviews; comment.	1.5	2 requests	3
Subtotal			97 responses	192
	Special Types of Approval			
125(c); 140	Request various oral approvals not specifically covered elsewhere in regulatory requirements.	1	100 requests	100
141; 101–199	Request approval to use new or alternative procedures; submit required information	20	100 requests	2,000
142; 101–199	Request approval of departure from operating requirements not specifically covered elsewhere in regulatory requirements; submit required information.	2.5	100 requests	250
Subtotal			300 responses	2,350
	Right-of-use and Easement			
160; 161; 123; NTL 2015–N06.	OCS lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include notifications and submitting required information.	9	26 applications	234
160(c)	Establish a Company File for qualification; submit updated information, submit qualifications for lessee/bidder, request exception.	Burden covered under 30 CFR 556 (1010–0006).		0
160; 165; 123	State lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include *pay.gov* confirmation and notifications.	5	1 application	5
		$2,742 state lease fee × 1 = $2,742		
166; NTL 2015–N04	State lessees: Furnish surety bond; additional security if required	Burden covered under 30 CFR 556 (1010–0006).		0
Subtotal			27 responses	239
			$2,742 non-hour cost burden	
	Primary Lease Requirements, Lease Term Extensions, and Lease Cancellations			
181(d); 182(b), 183(a)(b).	Request termination of suspension, cancellation of lease, lesser lease term (no requests in recent years for termination/cancellation of a lease; minimal burden).	20	1 request	20
182; 183, 185; 194	Submitting new, revised, or modified exploration plan, development/production plan, or development operations coordination document, and related surveys/reports.	Burden covered under 30 CFR 550, Subpart B (1010–0151).		0
184	Request compensation for lease cancellation pursuant to the OCS Lands Act (no lease cancellations in many years; minimal burden).	50	1 request	50
Subtotal			2 responses	70
	Information and Reporting Requirements			
186(a)	Apply to receive administrative entitlements to eWell/TIMS system for electronic submissions.	Not considered IC under 5 CFR 1320.3(h)(1).		0
186; NTL 2015–N01	Submit information, reports, and copies as BOEM requires (as related to worst case discharge and blowout scenarios).	10	125	1,250
135; 136	Report apparent violations or non-compliance	1.5	2 reports	3
194	Report archaeological discoveries. Submit archaeological and follow-up reports and additional information.	2	6 reports	12
194	Request departures from conducting archaeological resources surveys and/or submitting reports in GOMR.	1	2 requests	2
194	Submit ancillary surveys/investigations reports, as required	Burden covered under 30 CFR 550 Subpart B (1010–0151).		0
196	Submit data/information for G&G activity and request reimbursement	Burden covered under 30 CFR 551 (1010–0048).		0
197(b)(2)	Demonstrate release of G&G data would unduly damage competitive position	1	1	1

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
		Non-hour cost burdens		
197(c)	Submit confidentiality agreement	1	1	1
Subtotal			137 responses	1,269
	Recordkeeping			
135; 136	During reviews, make records available as requested by inspectors	2	7 reviews	14
Subtotal			7 responses	14

Citation 30 CFR 550 subpart K and related forms	Well surveys and classifying reservoirs	Hour burden	Average number of annual responses	Annual burden hours
1153	Conduct static bottomhole pressure survey; submit Form BOEM–0140 (Bottomhole Pressure Survey Report).	19 GOM 70 Pacific 0 Alaska	330 surveys 70 surveys 0	6,270 4,900 0
1153(d)	Submit justification, information, and Form BOEM–0140, to request a departure from requirement to run a static bottomhole pressure survey.	9	120 survey departures	1,080
1154; 1167	Submit request and supporting information to reclassify reservoir	8	5 requests	40
1155; 1165(b); 1166; 1167.	Submit Form BOEM–0127 (Sensitive Reservoir Information Report) and supporting information/revisions (within 45 days after the beginning of production, discovering that the reservoir is sensitive, the reservoir is classified as sensitive, or when reservoir parameters are revised. SRIs must be submitted annually). AK Region: submit BOEM–0127 and request an MER for each producing sensitive reservoir.	8 GOM 40 Pacific 2 Alaska	700 forms 39 forms 1 form	5,600 1,560 2
1153–1167	Request general departure or alternative compliance not specifically covered elsewhere in regulatory requirements.	10 GOM 1 Pacific 0 Alaska	10 departures 169 departures 0	100 169 0
1165	Submit proposed plan for enhanced recovery operations to BSEE	Burden covered under BSEE 30 CFR 250 (1014–0019).		0
Subtotal			1,444 responses	19,721
TOTAL BURDEN			5,621 Responses	27,849
			$165,492 Non-Hour Cost Burdens	

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Signed:

Peter Meffert,

Acting Chief, Office of Regulations.

[FR Doc. 2022–16386 Filed 7–29–22; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1287]

Certain Integrated Circuits, Chipsets, and Electronic Devices, and Products Containing the Same; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Settlement; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 30) of the presiding administrative law judge (''ALJ''), granting a joint motion to terminate the investigation in its entirety based on settlement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket system (''EDIS'') at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 7, 2021, based on a complaint filed by NXP Semiconductors N.V. of Eindhoven, Netherlands, and NXP USA, Inc. of Austin, Texas

(collectively, ''Complainants''). 86 FR 69289–90 (Dec. 7, 2021). The complaint alleges a violation of section 337 of the Tariff Act, as amended, 19 U.S.C. 1337, from the importation, sale for importation, or sale in the United States after importation of certain integrated circuits, chipsets, and electronic devices, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 9,729,214 (''the '214 patent''); 10,904,058 (''the '058 patent''); 8,482,136 (''the '136 patent''); 7,593,202; and 8,558,591. *Id.* at 69289. The complaint further alleges the existence of a domestic industry. *Id.* The Commission's notice of investigation names the following respondents: MediaTek Inc. of Hsinchu City, Taiwan; MediaTek USA Inc. of San Jose, California (collectively, ''MediaTek''); Amazon.com, Inc. of Seattle, Washington; Belkin International, Inc. of Playa Vista, California; and Linksys USA, Inc. of Irvine, California (all collectively, ''Respondents''). *Id.* at 69290. The Office of Unfair Import Investigations (''OUII'') is also a party to this investigation. *Id.*

The Commission previously terminated the investigation as to the '136 patent and certain claims of the '214 and '058 patents. Order No. 20 (May 31, 2022); *unreviewed by* Notice (June 21, 2022).

On July 12, 2022, Complainants and Respondents filed a joint motion to terminate the investigation based on a settlement agreement between the Complainants and MediaTek that resolves all disputes between Complainants and Respondents. No opposition to the motion was filed.

On July 13, 2022, the ALJ issued the subject ID (Order No. 30), granting the joint motion to terminate the investigation based on settlement. The ID finds that the motion for termination satisfies Commission Rule 210.21(b) (19 CFR 210.21(b)) and that no extraordinary circumstances exist that would prevent the requested termination. No petitions for review were filed.

The Commission has determined not to review the subject ID. The investigation is terminated in its entirety.

The Commission voted to approve this determination on July 25, 2022.

The authority for the Commission's determinations is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 26, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–16365 Filed 7–29–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–1218 (Rescission)]

Certain Variable Speed Wind Turbine Generators and Components Thereof; Notice of Commission Determination To Institute a Rescission Proceeding; Rescission of Two Cease and Desist Orders; Termination of the Rescission Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a rescission proceeding and to grant a petition to rescind two cease and desist orders (''CDOs'') issued in the underlying investigation. The rescission proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. For help accessing EDIS, please email *EDIS3Help@usitc.gov*. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 8, 2020, based on a complaint filed on behalf of General Electric Company of Boston, Massachusetts (''GE''). 85 FR 55492–93 (Sept. 8, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as supplemented and amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain variable speed wind turbine generators and components thereof by reason of infringement of one or more of claims 1, 3, 6, 7, 12, 15–16, 21–24, 29, 30, and 33–38 of U.S. Patent No. 6,921,985 (''the '985 patent'') and claims 1 and 2 of the U.S. Patent No. 7,629,705 (''the '705 patent''). *Id.* at 55493; Order No. 10 (Dec. 2, 2020), *unreviewed by* Comm'n Notice (Dec. 22, 2020). The Commission's notice of investigation named as respondents Siemens Gamesa Renewable Energy Inc. of Orlando, Florida (''SGRE Inc.''); Siemens Gamesa Renewable Energy A/S of Brande, Denmark (''SGRE A/S''); and Gamesa Electric, S.A.U. of Zamudio, Spain (''Gamesa'') (collectively, ''SGRE''). 85 FR 55493. The Office of Unfair Import Investigations is not a party to the investigation. *Id.*

On January 18, 2022, the Commission determined that GE showed a violation of section 337 by SGRE with respect to claims 29, 30, 33–35, and 37 of the '985 patent, but did not show a violation with respect to claims 1, 6, and 12 of the '985 patent or any claim of the '705 patent. 87 FR 3586–87 (Jan. 24, 2022). The Commission further found that GE showed that SGRE's full-converter wind turbine products with early versions of software infringe claims 29, 30, 33–35, and 37 of the '985 patent, but did not show that SGRE's full-converter wind turbine products with later versions of software or SGRE's doubly-fed induction generator (''DFIG'') wind turbine products infringe those claims. The Commission issued a limited exclusion order (''LEO'') and three CDOs against the three SGRE entities, but specified that those remedial orders did not cover: (1) DFIG wind turbine products; (2) full-converter wind turbine products with late versions of software; (3) wind turbine products that were subject to a license agreement between GE and SGRE's predecessor; and (4) wind turbine products that use GE Converteam power conversion units. Additionally, the Commission found that the remedial orders should have an exemption for the service and repair of existing wind turbine generators based on the public interest factors.

On March 25, 2022, the Commission issued a corrected Commission opinion. 87 FR 18396 (Mar. 30, 2022). The corrections clarified which component contains the relevant software for determining whether a full-converter wind turbine product infringes.

On June 24, 2022, GE filed a petition to rescind the CDOs against SGRE A/S and Gamesa. On July 6, 2022, SGRE A/S and Gamesa filed a response indicating that they do not oppose the rescission of the CDOs issued against them.

Having reviewed GE's petition seeking to rescind the CDOs and SGRE

A/S's and Gamesa's response indicating no opposition to rescinding the CDOs, the Commission finds that the conditions which led to the issuance of those CDOs no longer exist, and therefore, granting the petition to rescind is warranted under section 337(k) (19 U.S.C. 1337(k)). The Commission also finds that the requirements of Commission Rule 210.76(a) (19 CFR 210.76(a)) are satisfied. Accordingly, the Commission has determined to institute a rescission proceeding and to grant the petition to rescind the CDOs issued against SGRE A/S and Gamesa. The rescission proceeding is terminated.

The Commission vote for this determination took place on July 26, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 26, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–16366 Filed 7–29–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Fifth Review)]

Cased Pencils From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted August 1, 2022. To be assured of consideration, the deadline for responses is August 31, 2022. Comments on the adequacy of responses may be filed with the Commission by October 14, 2022.

FOR FURTHER INFORMATION CONTACT: Alejandro Orozco (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 28, 1994, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of cased pencils from China (59 FR 66909). Commerce issued a continuation of the antidumping duty order on cased pencils from China following Commerce's and the Commission's first five-year reviews, effective August 10, 2000 (65 FR 48960), second five-year reviews, effective December 20, 2005 (70 FR 75450), third five-year reviews, effective July 12, 2011 (76 FR 40880), and fourth five-year reviews, effective September 1, 2017 (82 FR 41608). The Commission is now conducting a fifth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, its expedited first, second, and third five-year review determinations, and its full fourth five-year review determination, the Commission defined the *Domestic Like Product* as all cased pencils, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination the Commission defined the *Domestic Industry* as all domestic producers of cased pencils except for one domestic producer, Pentech International, Inc., which it excluded from the *Domestic Industry* under the related parties provision. In its expedited first and second five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of cased pencils. In its expedited third five-year review determination, the Commission defined the *Domestic Industry* as all domestic producers of cased pencils except for one domestic producer, Dixon Ticonderoga, which it excluded from the *Domestic Industry* under the related parties provision. Certain Commissioners defined the *Domestic Industry* differently in the expedited third five-year review determination. Similarly, in its full fourth five-year review determination, the Commission defined the *Domestic Industry* as all domestic producers of cased pencils except for Dixon Ticonderoga, which it again excluded from the *Domestic Industry* under the related parties provision.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons,

or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 14, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–536, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution (''NOI''): As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/2022/cased_pencils_china/adequacy.htm* and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2016.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in gross and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in gross and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in gross and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2016, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 26, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–16363 Filed 7–29–22; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1334–1337 (Review)]

Emulsion Styrene-Butadiene Rubber From Brazil, Mexico, Poland, and South Korea; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty orders on emulsion styrene-butadiene rubber from Brazil, Mexico, Poland, and South Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted August 1, 2022. To be assured of consideration, the deadline for responses is August 31, 2022. Comments on the adequacy of responses may be filed with the Commission by October 14, 2022.

FOR FURTHER INFORMATION CONTACT: Tyler Berard (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On September 12, 2017, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of emulsion styrene-butadiene rubber from Brazil, Mexico, Poland, and South Korea (82 FR 42790). The Commission is conducting reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Brazil, Mexico, Poland, and South Korea.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determinations, the Commission defined a single *Domestic Like Product* consisting of the 1500 and 1700 series emulsion styrene-butadiene rubber, coextensive with the scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all U.S. producers of the domestic like product.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is September 12, 2017.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be

disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 31, 2022. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is October 14, 2022. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 22–5–535, expiration date June 30, 2023. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be Provided in Response to This Notice of Institution (''NOI''): If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website for this proceeding at *https://www.usitc.gov/investigations/701731/2022/emulsion_styrene_butadiene_rubber_brazil_korea/adequacy.htm* and download and complete the ''NOI worksheet'' Excel form, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date*.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2021, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic*

Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2021 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 26, 2022.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2022–16364 Filed 7–29–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—UHD Alliance, Inc.

Notice is hereby given that, on June 7, 2022 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), UHD Alliance, Inc. (''UHD Alliance'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Portrait Displays, Inc., Pleasanton, CA has been added as a party to this venture.

Also, Onkyo Home Entertainment Corporation, Osaka, JAPAN; and Arcadyan Technology Corporation, Hsinchu City, TAIWAN, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UHD Alliance intends to file additional written notifications disclosing all changes in membership.

On June 17, 2015, UHD Alliance filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 17, 2015 (80 FR 42537).

The last notification was filed with the Department on March 21, 2022. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29378).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16413 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Hedge V

Notice is hereby given that, on July 14, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Cooperative Research Group on HEDGE V (''HEDGE V'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FCA US LLC, Auburn Hills, MI has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HEDGE V intends to file additional written notifications disclosing all changes in membership.

On June 22,2021, HEDGE V filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 16, 2021 (86 FR 45750).

The last notification was filed with the Department on January 13, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13759).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16407 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Maritime Sustainment Technology and Innovation Consortium

Notice is hereby given that, on July 7, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Maritime Sustainment Technology and Innovation Consortium (''MSTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, 2G Engineering LLC, Sun Prairie, WI; Applied Engineering Management Corporation, Herndon, VA; Arimon Technologies, Inc., Montello, WI; Boon Logic Inc., Minneapolis, MN; Cynalytica, Inc., San Luis Obispo, CA; Fairlead Integrated, LLC, Portsmouth, VA; General Electric Company, Niskayuna, NY; Gibbs & Cox, Inc., Arlington, VA; Hill Technical Solutions, LLC, Huntsville, AL; Oceaneering International, Inc., Chesapeake, VA; Polaron Analytics, Beavercreek, OH; Storage Strategies Inc (SSI), Manassas Park, VA; The Columbia Group, Inc., Washington, DC; and Woodward, Inc., Fort Collins, CO have been added as parties to this venture.

Also, Intelligent Automation, Rockville, VA; and Temple Allen Industries, Rockville, MD have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSTIC intends to file additional written notifications disclosing all changes in membership.

On October 21, 2020, MSTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 19, 2020 (85 FR 73750).

The last notification was filed with the Department on April 8, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 2022 (87 FR 29180).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16406 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on July 12, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Zhejiang Eternal Automation Sci-Tec Co., Ltd., Ningbo, PEOPLE'S REPUBLIC OF CHINA; FUKUDA CO., LTD., Tokyo, JAPAN; Sherpa, Inc., Yokohama, JAPAN; Hanwha Corporation, Seoul, SOUTH KOREA; Digital Dynamics, Inc., Scotts Valley, CA; halstrup-walcher GmbH, Kirchzarten, GERMANY; FACTS Engineering, L.L.C., New Port Richey, FL; Bamboo-Dynamics Corporation, Ltd., Zhubei City, TAIWAN; and Dover Europe Sárl, Vernier, SWITZERLAND, have been added as parties to this venture.

Also, Digi International, Inc., Minnetonka, MN; Cape Software, Inc., Houston, TX; FANUC Robotics America, Rochester Hills, MI; ARCX Inc., Markham, Ontario, CANADA; and Holjeron Corporation, Wilsonville, OR, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on April 28, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29382).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16441 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**. The following transactions were granted early termination—on the date indicated—of the waiting period provided by law and the premerger notification rules. The listing includes the transaction number and the parties to the transaction. The Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice made the grants. Neither agency intends to take any action with respect to this proposed acquisitions during the applicable waiting period.

EARLY TERMINATION GRANTED

07/15/2022		
20221880	G	Alphabet Inc.; Google LLC; Mandiant, Inc.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division, Department of Justice.

[FR Doc. 2022–16404 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Utility Broadband Alliance, Inc.

Notice is hereby given that, on June 24, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Utility Broadband Alliance, Inc. (''UBBA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, American Electric Power, Columbus, OH; Landis + Gyr, Alpharetta, GA; Sequans, Colombes, FRANCE; Tessco, Hunt Valley, MD; EasyMetering, Boca Raton, FL; and S&C Electric, Chicago, IL; Sony, Hod Hasharon, ISRAEL; and CDM Smith, Boston, MA have been added as parties to this venture.

Also, Encore Networks, Chantilly, VA; Mimomax Wireless, Christchurch, NEW ZEALAND; and Puloli, Inc., San Francisco, CA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UBBA intends to file additional written notifications disclosing all changes in membership.

On May 4, 2021, UBBA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 10, 2021 (86 FR 30981).

The last notification was filed with the Department on May 12, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 31, 2022 (87 FR 32461).

Suzanne Morris,

Chief, Premerger and Division Statistics Antitrust Division.

[FR Doc. 2022–16408 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenJS Foundation

Notice is hereby given that, on July 21, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenJS Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Foursquare, New York, NY; HERE Technologies, Chicago, IL; Joby Aviation, Santa Cruz, CA; and Uber, San Francisco, CA, have been added as parties to this venture.

Also, Profound Logic, Dayton, OH; and SitePen, Palo Alto, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenJS Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, OpenJS Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on January 10, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13755).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16445 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bytecode Alliance Foundation

Notice is hereby given that, on July 14, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301

et seq. (''the Act''), Bytecode Alliance Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Liquid Reply, Gütersloh, GERMANY; University of Luxembourg, Luxembourg, LUXEMBOURG; and Shanghai Wudun Info Tech Co., Ltd., Shanghai, PEOPLE'S REPUBLIC OF CHINA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Bytecode Alliance Foundation intends to file additional written notifications disclosing all changes in membership.

On April 20, 2022, Bytecode Alliance Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29379).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16442 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Rust Foundation

Notice is hereby given that, on July 11, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Rust Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Embecosm, Southampton, UNITED KINGDOM; Keyrock S.A., Brussels, BELGIUM; and Techfund Inc, Tokyo, JAPAN, have been added as parties to this venture.

Also, SAS Clever Cloud, Nantes, FRANCE, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Rust Foundation intends to file additional written notifications disclosing all changes in membership.

On April 14, 2022, Rust Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29384).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16444 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research And Production Act Of 1993—AI Infrastructure Alliance, Inc.

Notice is hereby given that, on June 7, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AI Infrastructure Alliance, Inc. (''AIIA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Pasteur Labs & ISI, Brooklyn, NY; Fiddler AI, Palo Alto, CA; Hewlett Packard Enterprise, San Jose, CA; DataRobot, Inc., Boston, MA; Toloka AI Inc., Wilmington, DE; TruEra, Inc., Redwood City, CA; and Bosch AIShield, Koramangala, INDIA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AIIA intends to file additional written notifications disclosing all changes in membership.

On January 5, 2022, AIIA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13759).

The last notification was filed with the Department on March 21, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 2022 (87 FR 29180).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16403 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Naval Surface Technology & Innovation Consortium

Notice is hereby given that, on June 23, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Naval Surface Technology & Innovation Consortium (''NSTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Applied Energetics, Inc., Tucson, AZ; Aveox, Inc., Simi Valley, CA; Disruptiv Technologies LLC, Edgewater, MD; GLX Power Systems, Inc., Chagrin Falls, OH; Indiana University, Bloomington, IN; Mid-America Applied Technologies Corporation (MATCorp), Chagrin Falls, OH; Premier Precision Machine dba Rand Precision Machining, Falconer, NY; Southwest Dynamic Systems LLC, Albuquerque, NM; Thomas & Skinner, Inc., Indianapolis, IN; and Vega Technology Group LLC, North Canton, OH, have been added as parties to this venture.

Also, Kopis Mobile LLC, Flowood, MS, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSTIC intends to file additional written notifications disclosing all changes in membership.

On October 8, 2019, NSTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 12, 2019 (84 FR 61071).

The last notification was filed with the Department on April 5, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29380).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16410 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Undersea Technology Innovation Consortium

Notice is hereby given that, on July 7, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Undersea Technology Innovation Consortium (''UTIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Scientific Research Corp., Atlanta, GA; Mainstream Engineering Corp., Rockledge, FL; Halo Maritime Defense Systems, Inc., Newton, NH; Trident Systems Inc., Fairfax, VA; Anduril Industries, Inc., Irvine, CA; and Teledyne Energy Systems, Inc., Hunt Valley, MD have been added as parties to this venture.

Also, XR 2 Lead LLC, Dumfries, VA; Measurement Analysis Corp., Torrance, CA; and Autonomous Surface Vehicles LLC, Broussard, LA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UTIC intends to file additional written notifications disclosing all changes in membership.

On October 9, 2018, UTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 2018 (83 FR 55203).

The last notification was filed with the Department on April 5, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 2022 (87 FR 29182).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16411 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Digital Dollar Project, Inc.

Notice is hereby given that, on June 9, 2022 pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Digital Dollar Project, Inc. (''DDP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the members of the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the venture are: Visa, Inc., Palo Alto, CA; The Depository Trust & Clearing Corporation, Jersey City, NJ; Western Union, Denver, CO; Feed the Children, Oklahoma City, OK; GBBC-Global Blockchain Business Council, Washington, DC; and Knox Networks Inc., Woodbury, MN.

The general area of DDP's planned activity is to encourage research and public discussion on the potential advantages of a digital dollar, convene private sector thought leaders and actors, and propose possible models to support the public sector, and to carry on such other activities as the Board of Directors may from time to time approve.

Membership in DDP remains open and DDP intends to file additional written notifications disclosing all changes in membership.

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16431 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on June 27, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Etere Pte Ltd, Singapore, SINGAPORE; IntoPIX, Mont-Saint-Guibert, BELGIUM; and Phil Bernal (individual member), Brick, NJ, have been added as parties to this venture.

Also, Yamaha Corporation, Naku-ku, Hamamatsu, JAPAN, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on March 23, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29381).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16440 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Interchangeable Virtual Instruments Foundation, Inc.

Notice is hereby given that, on May 6, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Interchangeable Virtual Instruments Foundation, Inc. (''IVI Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hitech Electronic, Xi'an City, PEOPLE'S REPUBLIC OF CHINA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IVI Foundation intends to file additional written notifications disclosing all changes in membership.

On May 29, 2001, IVI Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 30, 2001 (66 FR 39336).

The last notification was filed with the Department on March 25, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29380).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16432 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—America's Datahub Consortium

Notice is hereby given that, on June 10, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), America's DataHub Consortium (''ADC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Apriori Network Systems LLC, Bedminster, NJ; Cambridge Research & Development, Inc., Nashua, NH; iWorks Corporation, Reston, VA; MaDu LLC, New York, NY; MetaPhase Consulting LLC, Reston, VA; Missions Solutions Group, North Charleston, SC; SageFox Consulting Group LLC, Amherst, MA; Sparksoft Corporation, Columbia, MD; The Lande Group LLC, Arlington, VA; and Virginia Tech Applied Research Corporation, Arlington, VA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ADC intends to file additional written notifications disclosing all changes in membership.

On November 11, 2021, ADC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 22, 2021 (86 FR 72628).

The last notification was filed with the Department on March 9, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29387).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16429 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium

Notice is hereby given that, on July 8, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Spectrum Consortium (''NSC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Rebellion Defense, Inc., Washington, DC; JACS Solutions, Inc., Linthicum Heights, MD; Aalyria Technologies, Inc., Livermore, CA; Mynaric USA, Inc., Hawthorne, CA; Nou Systems, Inc., Huntsville, AL; Anduril Industries, Inc., Irvine, CA; Carolina Microwave Associates, Inc., Cowpens, SC; Charter Communications Operating LLC, St. Louis, MO; Mustang Technology Group LP, Plano, TX; Grace Innovations LLC, Arlington, VA; and L3 Technologies Agile Development Group, Inc., Camden, NJ have been added as parties to this venture.

Also, Kopis Mobile LLC, Flowood, MS has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 23, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on April 13, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29182).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16434 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open RF Association, Inc.

Notice is hereby given that, on June 10, 2022, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open RF Association, Inc. filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Asia Eastern University of

Science and Technology, New Taipei City, TAIWAN; and Samsung Electro-Mechanics, Co., Ltd., Gyeonggi-do, SOUTH KOREA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open RF Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On February 21, 2020, Open RF Association, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 11, 2020 (85 FR 14247).

The last notification was filed with the Department on March 22, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 13, 2022 (87 FR 29379).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–16418 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0001]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Return A—Monthly Return of Offenses Known to Police and Supplement to Return A—Monthly Return of Offenses Known to Police; Extension of a Currently Approved Collection

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Criminal Justice Information Services Division (CJIS), Federal Bureau of Investigation (FBI), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until September 30, 2022.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated burden and associated response time, should be directed to Mr. Edward Abraham, Unit Chief, Criminal Justice Information Services Division, Module D–1, Federal Bureau of Investigation, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; telephone 304–625–4830. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503 or send to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Return A—Monthly Return of Offenses Known to Police and Supplement to Return A—Monthly Return of Offenses Known to Police and Supplement of Return A—Monthly Return of Offenses Known to Police

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1–720 and 1–706.

Sponsor: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* City, county, state, tribal and federal law enforcement agencies.

Abstract: Under Title 28, U.S. Code 534, Acquisition, Preservation, and Exchange of Identification Records; Appointments of Officials, 1930, this collection requests Part I offense and clearance data, as well as stolen and recovered monetary values of stolen property throughout the United States from city, county, state, tribal, and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of crime data and to publish these statistics in the *Preliminary Semi-Annual Report and Crime in the United States.*

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 18,600 law enforcement agencies within the universe of potential respondents. Due to the recent NIBRS transition, the UCR Program is no longer accepting new monthly submissions for Return A and Supplement to Return A data using this clearance. This clearance is being maintained to allow the submission of updates to past SRS submissions that were provided by agencies prior to the 2021 NIBRS transition. The submission of updates to past data is strictly voluntary and at the discretion of the contributing agency. Based on current reporting patterns, The FBI UCR Program has received 117,152 Return A & Supplement to Return A update submissions since January 1, 2021 with an estimated response time of 7 minutes per response on this form. As the UCR Program moves further from the NIBRS transition, it is expected that the total number of updates will steadily decline, mainly due to updates being done through NIBRS on a more frequent basis. However, due to the need for these updates, the burden hour estimate is based on the most recent submission volumes to achieve the highest possible burden estimate.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 13,668 hours, annual burden, associated with this information collection.

If additional information is required contact: Robert Houser, Assistant Director, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.206, Washington, DC 20530.

Dated: July 26, 2022.

Robert Houser,

Assistant Director, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–16360 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0006]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Law Enforcement Officers Killed or Assaulted: Extension of a Currently Approved Collection

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Criminal Justice Information Services Division (CJIS), Federal Bureau of Investigation (FBI), Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until September 30, 2022.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated burden and associated response time, should be directed to Mr. Edward Abraham, Unit Chief, Criminal Justice Information Services Division, Module D–1, Federal Bureau of Investigation, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; telephone 304–625–4830. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503 or send to *OIRA_submissions@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection:

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Law Enforcement Officers Killed or Assaulted.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1110–0006.

Sponsor: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* City, county, state, tribal and federal law enforcement agencies.

Abstract: Under Title 28, U.S. Code 534, Acquisition, Preservation, and Exchange of Identification Records; Appointments of Officials, 1930, this collection requests Law Enforcement Officers Killed and Assaulted data from city, county, state, federal, and tribal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of crime data and to publish these statistics in the Law Enforcement Officers Killed and Assaulted annual publication.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 18,600 law enforcement agencies within the universe of potential respondents. Due to the recent NIBRS transition, the UCR Program is no longer accepting new monthly submissions for LEOKA data using this clearance. This clearance is being maintained to allow the submission of updates to past SRS submissions that were provided by agencies prior to the 2021 NIBRS transition. The submission of updates to past data is strictly voluntary and at the discretion of the contributing agency. Based on current reporting patterns, The FBI UCR Program has received 68,764 LEOKA update submissions since January 1, 2021 with an estimated response time of 7 minutes per response on this form. As the UCR Program moves further from the NIBRS transition, it is expected that the total number of updates will steadily decline, mainly due to updates being done through NIBRS on a more frequent basis. However, due to the need for these updates, the burden hour estimate is based on the most recent submission volumes to achieve the highest possible burden estimate.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 8,023 hours, annual burden, associated with this information collection.

If additional information is required contact: Robert Houser, Assistant Director, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 3E.206, Washington, DC 20530.

Dated: July 26, 2022.

Robert Houser,

Assistant Director, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–16359 Filed 7–29–22; 8:45 am]

BILLING CODE 4410&ndash02–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0033]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension Without Change of a Previously Approved Collection; Report of Mail Order Transactions

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Drug Enforcement Administration (DEA), Department of Justice, is submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** on May 26, 2022, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until August 31, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–2265. Written comments and/or suggestions may also be sent to the Office of

Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503, or sent to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Report of Mail Order Transactions.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form Number:* N/A. The Department of Justice component is the Diversion Control Division, Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): None.

Abstract: The Drug Enforcement Administration (DEA) collects information regarding mail order transactions conducted between a person regulated by the agency and a nonregulated person (that is, someone who does not further distribute the product) involving the chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. Transactions must use, or attempt to use, the United States Postal Service or any private or commercial carrier.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

	Number of annual respondents	Number of responses per year	Number of annual responses	Average time per response (hours)	Total annual hours
Mail Order Reports	22	12	264	1	264
Total	22	N/A	264	N/A	264

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 264 annual burden hours.

If additional information is required, please contact: Robert Houser, Assistant Director, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, Suite 3E.206, Washington, DC 20530.

Dated: July 26, 2022.

Robert Houser,

Assistant Director, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–16351 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0038]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension Without Change of a Previously Approved Collection; Reporting and Recordkeeping for Digital Certificates

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Drug Enforcement Administration (DEA), Department of Justice, is submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection was previously published in the **Federal Register** at 87 FR 32057 on May 26, 2022, allowing for a 60-day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until August 31, 2022.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152; Telephone: (571) 776–2265. Written comments and/or suggestions may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503, or sent to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *Title of the Form/Collection:* Reporting and Recordkeeping for Digital Certificates.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form Numbers:

DEA Form 251: CSOS DEA Registrant Certificate Application.

DEA Form 252: CSOS Principal Coordinator/Alternate Coordinator Certificate Application.

DEA Form 253: CSOS Power of Attorney Certificate Application.

DEA Form 254: CSOS Certificate Application Registrant List Addendum.

The Department of Justice component is the Diversion Control Division, Drug Enforcement Administration.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): None.

Abstract: DEA collects information in regard to reporting and recordkeeping for digital certificates. The application for a digital certificate is required to ensure that the person applying for the certificate is either a DEA registrant or someone who has power of attorney from a DEA registrant to sign orders for Schedule I and II substances. The DEA Certification Authority uses the information to verify the person's identity and eligibility to hold a DEA-issued digital certificate.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* DEA estimates a total of 94,011 respondents annually. Each response takes approximately 2 hours to complete.

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 187,032 annual burden hours.

If additional information is required, please contact: Robert Houser, Assistant Director, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, Suite 3E.206, Washington, DC 20530.

Dated: July 26, 2022.

Robert Houser,

Assistant Director, Policy and Planning Staff, Office of the Chief Information Officer, U.S. Department of Justice.

[FR Doc. 2022–16354 Filed 7–29–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Research To Support the Partnership on Inclusive Apprenticeship (PIA)—Survey

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Disability Employment Policy (ODEP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before August 31, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Partnership on Inclusive Apprenticeship (PIA) focuses on engagement and outreach strategies to promote and implement inclusive practices within apprenticeship programs, such as those registered with the U.S. Department of Labor's Office of Apprenticeship. These strategies aim to enable individuals with disabilities, including working-age youth and adults ages 16–64, to gain credentials and skills to succeed in growing industries. PIA also seeks to glean federal and state policy options through such outreach and engagement, which includes several stakeholder engagement and outreach activities. The Office of Disability Employment Policy of DOL intends to design and conduct a process evaluation of the DOL-funded PIA. The goal of this four-year study is to build an understanding of the experiences, barriers, and successes of PIA during the implementation of the partnership. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 4, 2021 (86 FR 30069).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ODEP.

Title of Collection: Research to Support the Partnership on Inclusive Apprenticeship (PIA)—Survey.

OMB Control Number: 1230–0NEW.

Affected Public: Private Sector—Individuals or Households.

Total Estimated Number of Respondents: 134.

Total Estimated Number of Responses: 134.

Total Estimated Annual Time Burden: 89 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–16373 Filed 7–29–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Transmittal for Unemployment Insurance Materials

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before August 31, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: ETA's administrative procedures regulation, found at 20 CFR 601, sets out the information collection requirements on the states to submit copies of their unemployment compensation (UC) laws for approval by the Secretary of Labor, as required by Social Security Act section 303(a)(6) as a condition of receiving administrative grants. The Form MA 8–7 is used by the states to identify material being transmitted to the Department of Labor. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 19, 2021 (86 FR 64960).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–ETA.

Title of Collection: Transmittal For Unemployment Insurance Materials.

OMB Control Number: 1205–0222.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 318.

Total Estimated Annual Time Burden: 80 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: July 25, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–16378 Filed 7–29–22; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2022–0002]

National Advisory Committee on Occupational Safety and Health (NACOSH); Request for Nominations

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for nominations.

SUMMARY: OSHA invites interested persons to submit nominations for membership on the National Advisory Committee on Occupational Safety and Health (NACOSH).

DATES: Nominations for NACOSH membership must be submitted (postmarked, sent, transmitted, or received) by August 31, 2022.

ADDRESSES: You may submit nominations and supporting materials by one of the following methods:

Electronically: You may submit nominations, including attachments, electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the online instructions for making submissions.

OSHA will post submissions in response to this **Federal Register** notice, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download submissions or other material in the docket, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *www.regulations.gov.* All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General information and technical inquiries: Ms. Lisa Long, Acting Deputy Director, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693–2049; email: *long.lisa@dol.gov.*

SUPPLEMENTARY INFORMATION: The Secretary of Labor (Secretary) invites interested individuals to submit nominations for membership on NACOSH.

I. Background

The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) established NACOSH to advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Services (HHS Secretary) on matters relating to the administration of the OSH Act. NACOSH is a continuing

advisory committee of indefinite duration.

NACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2), implementing regulations (41 CFR part 102–3), the OSH Act, and OSHA's regulations on NACOSH (29 CFR part 1912a).

The Committee shall meet at least two times a year (29 U.S.C. 656(a)(2)). Committee members serve without compensation, but OSHA provides travel and per diem expenses. NACOSH members serve staggered terms, unless the member becomes unable to serve, resigns, ceases to be qualified to serve, or is removed by the Secretary. The terms of four Department of Labor appointed NACOSH members expire on January 14, 2023.

II. NACOSH Membership

NACOSH is comprised of 12 members appointed by the Secretary of Labor. Accordingly, the Secretary seeks committed members to serve a two-year term. If a vacancy occurs before a term expires, the Secretary may appoint a new member who represents the same interest as the predecessor to serve the remainder of the unexpired term. The U.S. Department of Labor (Department) is committed to equal opportunity in the workplace and seeks a broad-based and diverse NACOSH membership.

Nominations of new members, or resubmissions of current or former members, will be accepted in four categories of membership. Interested persons may nominate themselves or submit the name of another person whom they believe to be interested in and qualified to serve on NACOSH. Nominations may also be submitted by organizations from one of the categories listed.

OSHA invites nominations for the following NACOSH positions:

- One (1) public representative;
- One (1) management representative;
- One (1) labor representative;
- One (1) occupational safety professional representative.

III. Submission Requirements

Any individual or organization may nominate one or more qualified persons for membership on NACOSH. Nominations must include the following information:

1. The nominee's name, contact information, and current employment or position;
2. The nominee's resume or curriculum vitae, including prior membership on NACOSH and other relevant organizations and associations;
3. The categories that the nominee is qualified to represent;
4. A summary of the background, experience, and qualifications that address the nominee's suitability for membership;
5. A list of articles or other documents the nominee has authored that indicates the nominee's experience in worker safety and health; and
6. A statement that the nominee is aware of the nomination, is willing to regularly attend and participate in NACOSH meetings, and has no conflicts of interest that would preclude membership on NACOSH.

OSHA will conduct a basic background check of candidates before their appointment to NACOSH. The background check will involve accessing publicly available, internet-based sources.

IV. Member Selection

The Secretary of Labor will select four NACOSH members based on their experience, knowledge, and competence in the field of occupational safety and health (29 CFR 1912a.2). Information received through this nomination process, in addition to other relevant sources of information, will assist the Secretary of Labor in appointing members to NACOSH. In selecting NACOSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals. OSHA will publish a list of NACOSH members in the **Federal Register**.

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 656, 5 U.S.C. app. 2, 29 CFR parts 1912 and 1912a; 41 CFR part 102–3; and Secretary of Labor's Order No. 8–2020 (85 FR 58393, Sept. 18, 2020).

Signed at Washington, DC, on July 25, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–16376 Filed 7–29–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collections, Fidelity Bond and Insurance Coverage

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following extension of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before September 30, 2022 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 6032, Alexandria, Virginia 22314; email at *PRAComments@NCUA.gov.* Given the limited in-house staff because of the COVID–19 pandemic, email comments are preferred.

FOR FURTHER INFORMATION CONTACT: Address requests for additional information to Dawn Wolfgang at the address above or telephone 703–548–2279.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0170.

Title: Fidelity Bond and Insurance Coverage, Sec. 704.18 and Part 713.

Type of Review: Extension of a currently approved collection.

Abstract: The Federal Credit Union Act (at 12 U.S.C. 1761b(2)) requires that the boards of federal credit unions (FCU) arrange for adequate fidelity coverage for officers and employees having custody of or responsibility for handling funds.

The regulation contains a number of reporting requirements where a credit union seeks to exercise flexibility under the regulations. These requirements enable NCUA to monitor the FCU's financial condition for safety and soundness purposes and helps to assure that FCUs are properly and adequately protected against potential losses due to insider abuse such as fraud and embezzlement.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated No. of Respondents: 19.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Responses: 19.

Estimated Burden Hours per Response: 1.

Estimated Total Annual Burden Hours: 19.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The

public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Melane Conyers-Ausbrooks, Secretary of the Board, the National Credit Union Administration, on July 26, 2022.

Dated: July 26, 2022.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2022–16348 Filed 7–29–22; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice.

DATES: Comments should be received on or before August 31, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dawn Wolfgang at (703) 548–2279, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0185.

Type of Review: Extension of a currently approved collection.

Title: NCUA Vendor Registration Form.

Form: NCUA Form 1772.

Abstract: Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Act) (Pub. L. 111–203) calls for agencies to promote the inclusion of minority and women-owned firms in their business activities. The Act also requires agencies to annually report to Congress the total amounts paid to minority and women-owned businesses. In order for NCUA to comply with this Congressional mandate, NCUA Form 1772 is used to collect certain information from its current and potential vendors, so that it can identify businesses that meet the criteria. The vendor information is to be submitted to the agency on a one-time basis and will be used to assign an ownership status to the vendor (*i.e.,* minority-owned business, woman-owned business) per the requirements of the Act. The NCUA will use the vendor-entered ownership status information to help calculate the total amounts of contracting dollars awarded and paid to minority-owned and women-owned businesses.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 33.

By Melane Conyers-Ausbrooks, Secretary of the Board, the National Credit Union Administration, on July 26, 2022.

Dated: July 26, 2022.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2022–16347 Filed 7–29–22; 8:45 am]

BILLING CODE 7535–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Annuitant's Report of Earned Income, RI 30–2, 3206–0034

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on the renewal of an expiring information collection request (ICR), without change, Annuitant's Report of Earned Income, RI 30–2.

DATES: Comments are encouraged and will be accepted until September 30, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by the following method:

- *Federal Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or reached via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0034). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 30–2 is used annually to determine if disability retirees under age 60 have earned income which will result in the termination of their annuity benefits under title 5, U.S.C. Sections 8337 and 8455. It also specifies the conditions to

be met and the documentation required for a person to request reinstatement.

Analysis:

Agency: Retirement Services, Office of Personnel Management.

Title: Annuitant's Report of Earned Income *(Paper Form).*

OMB Number: 3206–0034.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 21,000.

Estimated Time per Respondent: 35 minutes.

Total Burden Hours: 12,250.

Title: Annuitant's Report of Earned Income *(Services Online (SOL)).*

Number of Respondents: 24,040.

Estimated Time per Respondent: 10 minutes.

Total Burden Hours: 4,007.

Title: Annuitant's Report of Earned Income *(Electronic Form).*

Number of Respondents: 21,000.

Estimated Time per Respondent: 35 minutes.

Total Burden Hours: 12,250.

U.S. Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

[FR Doc. 2022–16398 Filed 7–29–22; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–90 and CP2022–94]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 3, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–90 and CP2022–94; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service & Parcel Select Contract 19 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 26, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* August 3, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–16452 Filed 7–29–22; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95364; File No. SR–OCC–2022–009]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning One Multiplier Options

July 26, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 18, 2022, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would amend provisions of OCC Rules to accommodate the issuance, clearance and settlement of index options and flexibly structured index options with an index multiplier of one (collectively ''One Multiplier Options''). The proposed changes to OCC's Rules are contained in Exhibit 5 to filing number SR–OCC–2022–009. Material proposed to be added to OCC's Rules as currently in effect is marked by underlining, and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the By-Laws and Rules.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, The Proposed Rule Change

(1) Purpose

The Cboe Exchange (''Cboe'') received approval from the Commission to list One Multiplier Options as a variation of currently-traded index and index flex options.[4] One Multiplier Options will be similar to currently traded index and index flex options except that the multiplier for such options will be one rather than 100. With the proliferation of options with multipliers less than 100, OCC is proposing to modify its Rules to explicitly allow for a corresponding reduction in the automatic exercise threshold used for expiration processing for these products.

OCC Rule 1804 provides expiration procedures for cash-settled options. Rule 1804(b) establishes that expiring index options with standard expiration dates will be automatically exercised on an option's expiration date if it is in-the-money by $1.00 or more per contract unless a Clearing Member instructs that any such option contract should not be exercised. Options are exercised under this section as an operational convenience for Clearing Members to automatically exercise an option that is in-the-money by $1.00 or more, but Clearing Members have the ability to prevent the exercise of an in-the-money option that would otherwise be deemed exercised by submitting contrary exercise instructions. OCC proposes to make Rule 1804(b) applicable to One Multiplier Options that are not flexibly structured index options. Rule 1804(c) addresses expiration processing for expiring OTC index option contracts, flexibly structured index option contracts, quarterly index option contracts, weekly index option contracts, and short term index options, and these products will be subject to automatic exercise on an option's expiration date if the option is in-the-money by the threshold amount specified in the rule.[5] By product design, the index product types covered by Rule 1804(c) are automatically exercised if expiring option contracts meets the exercise threshold established therein, and Clearing Members do not have the ability to submit instructions to prevent the exercise of an option that is in-the-money by the exercise threshold amount. OCC proposes to make Rule 1804(c) applicable to flexibly-structured One Multiplier Options.

With the exception of OTC index options, Rule 1804(b) and (c) set $1.00 per contract as the threshold amount to determine if an expiring index option contract will be deemed exercised immediately prior to the expiration time of the index option, meaning such options will be exercised if the Exercise Settlement Amount of such option is $1.00 or more. As defined in Article XVII Section 1 of the OCC By-Laws, the Exercise Settlement Amount is the difference between the aggregate exercise price and the aggregate index value on the day of exercise. The $1.00 amount provided in Rule 1804(b) and (c) serves as a threshold amount to determine which option positions will be automatically exercised. In other words, index option positions, other than OTC index option positions which have an exercise threshold amount of $0.01 per contract, will be deemed automatically exercised if the option is in-the-money by $1.00 or more per contract on an option's expiration date.

One Multiplier Options are 1/100th the size of most index option or index flex option on the same underlying index. Whereas the standard option has a multiplier of 100, One Multiplier Options will have a multiplier of one, meaning that the exercise settlement amount for One Multiplier Options will be determined as the difference between the strike price (multiplied by one) and the index value (multiplied by one). Due to the decrease in product size as the result of the smaller multiplier, Cboe has requested a proportionate reduction to the exercise threshold amount as established in Rule 1804(b) and (c).[6] Consequently, OCC proposes to amend Rule 1804(b) and (c) to establish an exercise threshold that is 1/100th the size of a standard option, or $0.01 per contract for the One Multiplier Options.

To achieve this outcome, OCC proposes to amend Rule 1804 to state that any index option with a multiplier of one will have an exercise threshold of $0.01 per contract. The threshold amount for all other options included in Rule 1804 will remain unchanged. To clearly differentiate between the exercise amounts for options with a multiplier of one from other options, OCC proposes to modify Rule 1804(b) and (c) to include separate subsections in Rule 1804(b)(1) and (2) and Rule 1804(c)(1), (2) and (3).

As noted previously, Rule 1804(b) and (c) allow OCC to establish a different threshold amount by providing 30 days' prior notice to Index Clearing Members. The proposed rule change will subsequently align the exercise threshold in the rule with the exercise threshold for One Multiplier Options established by previously providing the required 30 days' advance notice in the form of an Information Memo.

(2) Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A of the Act[7] and the rules thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act[8] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. As described in greater detail above, the proposed rule aligns OCC's Rules with respect to expiration processing with the specifications of One Multiplier Options as established by Cboe. Accordingly, OCC believes the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions in accordance with Section 17A(b)(3)(F) of the Act.

[4] *See* Securities Exchange Act Release No. 34–91528 (April 9, 2021), 86 FR 19933 (April 15, 2021) (SR–CBOE–2020–117), and Securities Exchange Act Release No. 34–993122 [sic] (September 24, 2021), 86 FR 54269 (September 30, 2021) (SR–CBOE–2021–041).

[5] Currently, Rule 1804(c) establishes a $0.01 per contract automatic exercise amount for OTC index options and a $1.00 per contract automatic exercise amount for all other index option types addressed in Rule 1804(c).

[6] Pursuant to Rule 1804, OCC may change the exercise threshold amounts by providing Clearing Members with notice of the new threshold amount not less than 30 days prior to the effective date of the new threshold amount. OCC provided such notice to Clearing Members by posting OCC Information Memo #50046 on the OCC website on February 11, 2022, stating that index options with a multiplier less than 100 will have an exercise threshold of $0.01 per contract. Cboe launched standard One Multiplier Options on March 14, 2022 and OCC applied the $0.01 exercise threshold to the product at that time. Given the proliferation of options with multipliers less than 100, OCC is proposing this change to its Rules to explicitly state an exercise threshold that should apply to each product with this characteristic.

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78q–1(b)(3)(F).

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act[9] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would apply the automatic exercise threshold of $0.01 uniformly to any index product with a multiplier less than 100 traded on any exchange. Furthermore, the automatic exercise threshold is used in expiration processing solely for the operational convenience of OCC Clearing Members and thus does not impact or impose any burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self regulatory organization consents, the Commission will: (A) by order approve or disapprove such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2022–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2022–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules*.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2022–009 and should be submitted on or before August 22,2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–16352 Filed 7–29–22; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78q–1(b)(3)(I).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, August 4, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: July 28, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–16512 Filed 7–28–22; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–465, OMB Control No. 3235–0528]

Proposed Collection; Comment Request; Extension: Rule 237

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

In Canada, as in the United States, individuals can invest a portion of their earnings in tax-deferred retirement savings accounts (''Canadian retirement accounts''). These accounts, which operate in a manner similar to individual retirement accounts in the United States, encourage retirement savings by permitting savings on a tax-deferred basis. Individuals who establish Canadian retirement accounts while living and working in Canada and who later move to the United States (''Canadian-U.S. Participants'' or ''participants'') often continue to hold their retirement assets in their Canadian retirement accounts rather than prematurely withdrawing (or ''cashing out'') those assets, which would result in immediate taxation in Canada.

Once in the United States, however, these participants historically have been unable to manage their Canadian retirement account investments. Most securities that are ''qualified investments'' for Canadian retirement accounts are not registered under the U.S. securities laws. Those securities, therefore, generally cannot be publicly offered and sold in the United States without violating the registration requirement of the Securities Act of 1933 (''Securities Act'').[1] As a result of this registration requirement, Canadian-U.S. Participants previously were not able to purchase or exchange securities for their Canadian retirement accounts as needed to meet their changing investment goals or income needs.

The Commission issued a rulemaking in 2000 that enabled Canadian-U.S. Participants to manage the assets in their Canadian retirement accounts by providing relief from the U.S. registration requirements for offers of securities of foreign issuers to Canadian-U.S. Participants and sales to Canadian retirement accounts.[2] Rule 237 under the Securities Act[3] permits securities of foreign issuers, including securities of foreign funds, to be offered to Canadian-U.S. Participants and sold to their Canadian retirement accounts without being registered under the Securities Act.

Rule 237 requires written offering documents for securities offered and sold in reliance on the rule to disclose prominently that the securities are not registered with the Commission and are exempt from registration under the U.S. securities laws. The burden under the rule associated with adding this disclosure to written offering documents is minimal and is non-recurring. The foreign issuer, underwriter, or broker-dealer can redraft an existing prospectus or other written offering material to add this disclosure statement, or may draft a sticker or supplement containing this disclosure to be added to existing offering materials. In either case, based on discussions with representatives of the Canadian fund industry, the staff estimates that it would take an average of 10 minutes per document to draft the requisite disclosure statement.

The Commission understands that there are approximately 2,553 Canadian issuers other than funds that may rely on rule 237 to make an initial public offering of their securities to Canadian-U.S. Participants.[4] The staff estimates that in any given year approximately 25 (or 1 percent) of those issuers are likely to rely on rule 237 to make a public offering of their securities to participants, and that each of those 25 issuers, on average, distributes 3 different written offering documents concerning those securities, for a total of 75 offering documents.

The staff therefore estimates that during each year that rule 237 is in effect, approximately 25 respondents[5] would be required to make 75 responses by adding the new disclosure statements to approximately 75 written offering documents. Thus, the staff estimates that the total annual burden associated with the rule 237 disclosure requirement would be approximately 13 hours (75 offering documents × 10 minutes per document). The total annual cost of internal burden hours is estimated to be $5,915 (13 hours × $455 per hour of attorney time).[6]

In addition, issuers from foreign countries other than Canada could rely on rule 237 to offer securities to Canadian-U.S. Participants and sell securities to their accounts without becoming subject to the registration requirements of the Securities Act. However, the staff believes that the number of issuers from other countries that rely on rule 237, and that therefore are required to comply with the offering document disclosure requirements, is negligible.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by September 30, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

[1] 15 U.S.C. 77. In addition, the offering and selling of securities of investment companies (''funds'') that are not registered pursuant to the Investment Company Act of 1940 (''Investment Company Act'') is generally prohibited by U.S. securities laws. 15 U.S.C. 80a.

[2] *See* Offer and Sale of Securities to Canadian Tax-Deferred Retirement Savings Accounts, Release Nos. 33–7860, 34–42905, IC–24491 (June 7, 2000) [65 FR 37672 (June 15, 2000)]. This rulemaking also included new rule 7d–2 under the Investment Company Act, permitting foreign funds to offer securities to Canadian-U.S. Participants and sell securities to Canadian retirement accounts without registering as investment companies under the Investment Company Act. 17 CFR 270.7d–2.

[3] 17 CFR 230.237.

[4] This estimate is based on the following calculation: 3,461 total issuers − (82 closed-end funds + 826 exchange-traded products) = 2,553 total equity and bond issuers. *See* The MiG Report, Toronto Stock Exchange and TSX Venture Exchange (January 2022) (providing number of issuers on the Toronto Exchange). This calculation excludes Canadian funds to avoid double-counting disclosure burdens under rule 237 and rule 7d–2.

[5] This estimate of respondents only includes foreign issuers. The number of respondents would be greater if foreign underwriters or broker-dealers draft stickers or supplements to add the required disclosure to existing offering documents.

[6] The Commission's estimate concerning the wage rate for attorney time is based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association (''SIFMA''). The $455 per hour figure for an attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1,800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, overhead, and adjusted to account for the effects of inflation.

under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: July 26, 2022.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–16355 Filed 7–29–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95365; File No. SR–MIAX–2022–26]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading

July 26, 2022.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2022, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 404, Series of Option Contracts Open for Trading. Specifically, the Exchange proposes to amend Interpretations and Polices .11 of Rule 404 to account for conflicts between different provisions within the Short Term Option Series Rules.

Background

In 2021, the Exchange amended Rule 404 to limit the intervals between strikes in equity options listed as part of the Short Term Option Series Program, excluding Exchange-Traded Fund Shares and ETNs, that have an expiration date more than twenty-one days from the listing date (''Strike Interval Proposal'').[3] The Strike Interval Proposal adopted new Policy .11 to Interpretations and Policies of Rule 404, which included a table that intended to specify the applicable strike intervals that would supersede Policy .02(e)[4] of Rule 404 for Short Term Option Series in equity options, excluding Exchange-Traded Fund Shares and ETNs, which have an expiration date more than twenty-one days from the listing date. The Strike Interval Proposal was designed to reduce the density of strike intervals that would be listed in later weeks, within the Short Term Option Series Program, by utilizing limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date.

The Exchange now proposes to amend the rule text within Policy .11 of Interpretations and Policies of Rule 404 to clarify current rule text and amend the application of the table to account for potential conflicts within the Short Term Option Series Rules. Currently, the table within Policy .11 of Rule 404 is as follows:[5]

Tier	Average daily volume	Share price				
		Less than $25	$25 to less than $75	$75 to less than $150	$150 to less than $500	$500 or greater
1	Greater than 5,000	$0.50	$1.00	$1.00	$5.00	$5.00
2	Greater than 1,000 to 5,000	1.00	1.00	1.00	5.00	10.00
3	0 to 1,000	2.50	5.00	5.00	5.00	10.00

The first sentence of Policy .11 of Rule 404 provides, ''[w]ith respect to listing Short Term Option Series in equity options, excluding Exchange-Traded Fund Shares and ETNs, which have an expiration date more than twenty-one (21) days from the listing date, the following table will apply as noted within Policy .02(f).''

First, the Exchange proposes to amend the first sentence of Policy .11 of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91776 (May 5, 2021), 86 FR 25923 (May 11, 2021) (SR–MIAX–2021–12).

[4] The strike price interval for Short Term Option Series may be $0.50 or greater for option classes that trade in $1 strike price intervals and are in the Short Term Option Series Program. If the class does not trade in $1 strike price intervals, the strike price interval for Short Term Option Series may be $0.50 or greater where the strike price is less than $100 and $1.00 or greater where the strike price is between $100 and $150, and $2.50 or greater for strike prices greater than $150. *See* Policy .02(e) of Exchange Rule 404.

[5] The Share Price is the closing price on the primary market on the last day of the calendar quarter. In the event of a corporate action, the Share Price of the surviving company is utilized. The Average Daily Volume is the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter. Beginning on the second trading day in the first month of each calendar quarter, the Average Daily Volume shall be calculated by utilizing data from the prior calendar quarter based on Customer-cleared volume at The Options Clearing Corporation. For options listed on the first trading day of a given calendar quarter, the Average Daily Volume shall be calculated using the quarter prior to the last trading calendar quarter. *See* Interpretations and Policies .11 of Exchange Rule 404.

Rule 404 to provide, ''[w]ith respect to listing Short Term Option Series in equity options, excluding Exchange-Traded Fund Shares and ETNs, which have an expiration date more than twenty-one (21) days from the listing date, the following table, *which specifies the applicable interval for listing,* will apply as noted within Policy .02(f).'' The table within Policy .11 provides for the listing of intervals based on certain parameters (average daily volume and share price). The Exchange proposes to add the phrase, ''which specifies the applicable interval for listing'' to make clear that the only permitted intervals are as specified in the table within Interpretations and Policies .11, except in the case where Policy .02(e) of Rule 404 provides for a greater interval as described in more detail below.

Second, the Exchange proposes to add a new sentence to Policy .11 of Rule 404 which states, ''[t]o the extent there is a conflict between applying Policy .02(e) and the below table, the greater interval would apply.'' Today, there are instances where a conflict is presented as between the application of the table within Policy .11 and the rule text within Policy .02(e) with respect to the correct interval. Adding the proposed sentence would make clear to Members [6] the applicable intervals where there is a conflict between the rule text within Policy .11 and the rule text within Policy .02(e), thereby providing certainty as to the outcome. The Exchange proposes to insert the words ''greater interval'' because it proposes to permit Policy .02(e) of Rule 404 to govern only in the event that the interval would be greater. The same analysis would not be conducted where the result would be a lesser interval. By way of example:

Example 1: Assume a Tier 1 stock that closed on the last day of Q1 with a quarterly share price higher than $75 but less than $150. Therefore, utilizing the table within Policy .11 of Rule 404, the interval would be $1.00 for strikes added during Q2 even for strikes above $150. Next, assume during Q2 the share price rises above $150. Utilizing only the table within Policy .11, the interval would be $1.00 even though the stock is now trading above $150 because the Share Price for purposes of Policy .11 was calculated utilizing data from the prior calendar quarter. However, a separate Policy, Policy .02(e) of Rule 404, provides that the Exchange may list a Short Term Option Series at $2.50 intervals where the strike price is above $150. In other words, there is a potential conflict between the permitted strike intervals above $150. In this example, Policy .11 of Rule 404 would specify a $1.00 interval whereas Policy .02(e) of Rule 404 would specify a $2.50 interval. As proposed, the Exchange proposes to apply the greater interval. The greater interval would then be $2.50 as per Policy .02(e) of Rule 404 in this scenario. Therefore, the following strikes would be eligible to list: $152.50 and $157.50. For strikes less than $150, the following strikes would be eligible to list: $149 and $148 because Short Term Option Series with expiration dates more than 21 days from the listing date as well as Short Term Option Series with expiration dates less than 21 days from the listing date would both be eligible to list $1 intervals pursuant to Policy .11 of Rule 404 and Policy .02(e) of Rule 404.

Example 2: Assume a Tier 2 stock that closed on the last day of Q1 with a quarterly share price less than $25. Therefore, utilizing the table within Policy.11 of Rule 404, the interval would be $1.00 for strikes added during Q2 even for strikes above $25. Next, assume during Q2 the share price rises above $100. Utilizing only the table within Policy .11 of Rule 404, the interval would be $1.00 even though the stock is now trading above $100 because the Share Price for purposes of Policy .11 of Rule 404 was calculated utilizing data from the prior calendar quarter. However, Policy .02(e) of Rule 404 provides that the Exchange may list a Short Term Option Series at $1.00 intervals where the strike price is above $100. As proposed, the Exchange would apply the greater interval, however, the $1.00 interval is the same in both cases in this scenario and, therefore, there is no conflict. Now, assume during Q2 the share price rises above $150. Utilizing only the table within Policy .11 of Rule 404, the interval would continue to be $1.00 because the Share Price relied on data from the prior calendar quarter, however, pursuant to Policy .02(e) of Rule 404, the interval would be $2.50 for strike prices above $150. The greater interval would then be $2.50 as per Policy .02(e) of Rule 404 in this scenario.

Example 3: Assume a Tier 3 stock that closed on the last day of Q1 with a quarterly share price less than $25. Therefore, utilizing the table within Policy .11 of Rule 404, the interval would be $2.50 for strikes added during Q2 even for strikes above $25. Next, assume during Q2 the share price rises above $100. Utilizing only the table within Policy .11 of Rule 404, the interval would be $2.50 even though the stock was trading above $100 because the Share Price for purposes of Policy .11 of Rule 404 was calculated utilizing data from the prior calendar quarter. However, Policy .02(e) of Rule 404 provides that the Exchange may list a Short Term Option Series at $1.00 intervals where the strike price is above $100. The greater interval would then be $2.50 as per the table in Policy .11 of Rule 404 in this scenario.

Third, the Exchange proposes to delete the last sentence of the first paragraph of Policy .11 of Rule 404 which states, ''[t]he below table indicates the applicable strike intervals and supersedes Policy .02(d) which permits additional series to be opened for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened.'' The table within Policy .11 impacts strike intervals, while Policy .02(d) describes adding series of options. The table within Policy .11 supersedes other rules pertaining to strike intervals, but the table does not supersede rules governing the addition of options series. Therefore, the table within Policy .11 of Rule 404 and the rule text of Policy .02(d) do not conflict with each other. Deleting the reference to Policy .02(d) will avoid confusion.

Fourth, and finally, the Exchange provides within the last sentence of Policy .11 of Rule 404 that, ''[n]otwithstanding the limitations imposed by this Policy .11, this proposal does not amend the range of strikes that may be listed pursuant to Policy .02 above, regarding the Short Term Option Series Program.'' The Exchange proposes to remove this rule text. While the range limitations continue to be applicable to the table within Policy .11, the strike ranges do not conflict with strike intervals and therefore the sentence is not necessary. Removing the last sentence of Policy .11 of Rule 404 will avoid confusion. Also, the rule text within Policy .02(f) of Rule 404 otherwise indicates when Policy .11 would apply.

Implementation

The Exchange proposes to implement this rule change on August 1, 2022. The Exchange will issue a Trader Alert to notify Members of the implementation date.

[6] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [7] in general, and furthers the objectives of Section 6(b)(5) of the Act [8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange's proposal to add clarifying language to the first sentence of Policy .11 of Rule 404, is consistent with the Act because it will make clear that the only permitted intervals are as specified in the table within Policy .11, except in the case where Policy .02(e) provides for a greater interval. This amendment will bring greater transparency to the rule.

Adopting a new sentence within Policy .11 of Rule 404 to address a potential conflict between the Short Term Option Series Program rules, specifically as between the application of the table within Policy .11 of Rule 404, and the rule text within Policy .02(e), with respect to the correct interval is consistent with the Act. The table within Policy .11 of Rule 404 supersedes other strike interval rules, but does not supersede the addition of option series. Therefore, these rules do not conflict with the table in Policy .11 of Rule 404. Deleting the reference to Policy .02(d) will avoid confusion. This new rule text will make clear to Members the applicable intervals when there is a conflict between the rule text within Policy .11 of Rule 404 and the rule text within Policy .02(e), thereby providing certainty as to the outcome. The proposed new rule text promotes just and equitable principles of trade by adding transparency to the manner in which the Exchange implements its listing rules, and protects investors and the general public by removing uncertainty.

Removing the last sentence of the first paragraph of Policy .11 of Rule 404, is consistent with the Act because the table within Policy .11 impacts strike intervals, while Policy .02(d) of Rule 404, describes the addition of options series. Therefore, the tables within Policy .11 and Policy .02(d) do not conflict with each other. Deleting the reference to Policy .02(d) will avoid confusion.

Removing the last sentence of Policy .11 is consistent with the Act because while the range limitations continue to be applicable, the strike ranges do not conflict with strike intervals, rendering the sentence unnecessary. Removing the last sentence of Policy .11 of Rule 404 will avoid confusion. Also, the rule text within Policy .02(f) of Rule 404 otherwise indicates when Policy .11 would apply.

The Strike Interval Proposal was designed to reduce the density of strike intervals that would be listed in later weeks, within the Short Term Option Series Program, by utilizing limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date. The Exchange's proposal intends to continue to remove certain strike intervals where there exist clusters of strikes whose characteristics closely resemble one another and, therefore, do not serve different trading needs,[9] rendering these strikes less useful. Also, the Strike Interval Proposal continues to reduce the number of strikes listed on the Exchange, allowing Market Makers [10] to expend their capital in the options market in a more efficient manner, thereby improving overall market quality on the Exchange.

Additionally, by making clear that the greater interval would control as between the rule text with Policy .11 of Rule 404 and the rule text within Policy .02(e), the Exchange is reducing the number of strikes listed in a manner consistent with the intent of the Strike Interval Proposal, which was to reduce strikes which were farther out in time. The result of this clarification is to select wider strike intervals for Short Term Option Series in equity options which have an expiration date more than twenty-one days from the listing date. This rule change would harmonize strike intervals as between inner weeklies (those having less than twenty-one days from the listing date) and outer weeklies (those having more than twenty-one days from the listing date) so that strike intervals are not widening as the listing date approaches.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Strike Interval Proposal continues to limit the number of Short Term Option Series strike intervals available for quoting and trading on the Exchange for all Members.

Adopting a new sentence to address potential conflicts between the rule text within Policy .11 of Rule 404 and Policy .02(e) of Rule 404, within the Short Term Option Series Program, will bring greater transparency to the manner in which the Exchange implements its listing rules. Adding clarifying language to the first sentence of Policy .11 of Rule 404 to make clear which parameter the table within Policy .11 amends within the Short Term Option Series Program will bring greater transparency to the rules.

The table within Policy .11 of Rule 404 impacts strike intervals, while Policy .02(d) describes adding series of options. The table within Policy .11 supersedes other strike interval rules, but does not supersede the addition of series. Removing the last sentence of the first paragraph of Policy .11 of Rule 404, does not impose an undue burden on competition because the table within Policy .11 of Rule 404 supersedes other rules pertaining to strike intervals, but the table does not supersede rules governing the addition of options series. Also, deleting the reference to Policy .02(d) of Rule 404 will avoid confusion. Finally, removing the last sentence of Policy .11 of Rule 404 will remove any potential confusion. While the range limitations continue to be applicable, the strike ranges do not conflict with strike intervals and are not necessary.

While this proposal continues to limit the intervals of strikes listed on the Exchange, the Exchange continues to balance the needs of market participants by continuing to offer a number of strikes to meet a market participant's investment objective. The Exchange's Strike Interval Proposal does not impose an undue burden on inter-market competition as this Strike Interval Proposal does not impact the listings available at another self-regulatory organization.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] For example, two strikes that are densely clustered may have the same risk properties and may also be the same percentage out-of-the-money.

[10] The Term Market Makers refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(6) [12] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange may implement the proposed rule change on August 1, 2022—the same time other exchanges are implementing an identical change.[15] The Exchange states that implementing the proposal simultaneously with other option exchanges will promote the protection of investors by harmonizing the strike listing methodology across exchanges. For this reason, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2022–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2022–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2022–26 and should be submitted on or before August 22,2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2022–16353 Filed 7–29–22; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 95085 (June 10, 2022), 87 FR 36353 (June 16, 2022) (SR–ISE–2022–10) (Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend ISE Options 4, Section 5, Series of Options Contracts Open for Trading).

[16] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12), (59).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before August 31, 2022.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The Small Business Investment Act authorizes SBA to guarantee a debenture issued by a Certified Development Company (CDC). The proceeds from each debenture are used to fund loans to eligible small business concerns (''504 loans''). 15 U.S.C. 697(a). The Small Business Act and the Small Business Investment Act mandate that all guaranteed loans provided by the SBA to small business concerns (SBCs) must have a reasonable assurance of ability to

repay. See 15 U.S.C. 636(a) (6) and 687(f); see also 13 CFR 120.150. The information collections described below—SBA Form 1244 is part of the application process for a 504 loan. SBA issued Information Notice under control number 5000–20056 on September 30,2020 for the retirement of Form 2450.

Additionally, in accordance with the National Defense Authorization Act (NDAA)/Small Business Runway Extension Act (SBREA) for the anticipated Fiscal Year 2022 final rule, the SBA plans to use its administrative discretion to permit loan applicants to choose between 3 years and 5 years for receipts-based size standards, and from 12 months to 24 months for employee-based size standards. (15 U.S.C. 632(a)(2))

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

OMB Control Number: 3245–0071.

Title: Application for Section 504 Loans.

Form Number: SBA Form 1244.

Description of Respondents: Small Business Concerns applying for a section 504 loan and Certified Development Companies.

The information collected by this form is used to review the eligibility of the small business concern (SBC) for SBA financial assistance; the creditworthiness and repayment ability of the SBC; and the terms and conditions of the 504 loan for which the SBC is applying.

SBA has established a streamlined loan application processing procedure known as the Abridged Submission Method (ASM). Under this process, the CDCs are required to collect and retain all exhibits to SBA Form 1244, but are only required to submit selective documents. CDCs using the non-ASM method are required to submit all documents and exhibits required for Form 1244.

The burden estimates (based on the experience of the CDCs and SBA field offices) of the burden hours imposed by use of these forms, including exhibits, are as follows:

There are 200 CDCs affected by the information collection. The total number of small business concerns that will annually respond to Form 1244 is approximately 7,119 based on the average submission of applications submitted from CDCs over the past FY using both the ASM and non-ASM methods. This is a total of 7,119 respondents. Burden hours are 2.25 hours for PCLP Loan and ALP Express Loan, 2.5 hours for ASM, and 3.5 hours for non-ASM submissions.

Estimated Number of Respondents: 7,119.

Estimated Annual Responses: 7,119.

Estimated Annual Hour Burden: 14,238.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2022–16412 Filed 7–29–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 17534 and # 17535; Minnesota Disaster Number MN–00095]

Administrative Declaration of a Disaster for the State of Minnesota

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Minnesota dated 07/25/2022.

Incident: Severe Thunderstorms and Tornadoes.

Incident Period: 05/29/2022 through 05/30/2022.

DATES: Issued on 07/25/2022.

Physical Loan Application Deadline Date: 09/23/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 04/25/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Douglas.

Contiguous Counties:

Minnesota: Grant, Otter Tail, Pope, Stearns, Stevens, Todd.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	5.870
Businesses without Credit Available Elsewhere	2.935
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17534 6 and for economic injury is 17535 0.

The State which received an EIDL Declaration # is Minnesota.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–16397 Filed 7–29–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 17537 and # 17538; Minnesota Disaster Number MN–00096]

Administrative Declaration of a Disaster for the State of Minnesota

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Minnesota dated 07/25/2022.

Incident: Severe Storms and Flooding.

Incident Period: 06/23/2022 through 06/24/2022.

DATES: Issued on 07/25/2022.

Physical Loan Application Deadline Date: 09/23/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 04/25/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Morrison.
Contiguous Counties:
Minnesota: Benton, Cass, Crow Wing, Mille Lacs, Stearns, Todd.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	5.870
Businesses without Credit Available Elsewhere	2.935
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17537 6 and for economic injury is 17538 0.

The State which received an EIDL Declaration # is Minnesota.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–16401 Filed 7–29–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 17536; Illinois Disaster Number IL–00070 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of Illinois

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Illinois dated 07/25/2022.

Incident: Highland Park Parade Mass Shooting and Related Investigation.

Incident Period: 07/04/2022 through 07/10/2022.

DATES: Issued on 07/25/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 04/25/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Lake.
Contiguous Counties:
Illinois: Cook, McHenry.
Wisconsin: Kenosha.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for economic injury is 175360.

The States which received an EIDL Declaration #17536 are Illinois, Wisconsin.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–16400 Filed 7–29–22; 8:45 am]

BILLING CODE 8026–09–P

SURFACE TRANSPORTATION BOARD

Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership

AGENCY: Surface Transportation Board.

ACTION: Notice of Senior Executive Service Performance Review Board (PRB) and Executive Resources Board (ERB) Membership.

Effective immediately, the membership of the PRB and ERB is as follows:

Performance Review Board

William Brennan, Chairman
Rachel Campbell, Member
Craig M. Keats, Member
Mai Dinh, Alternate Member

Executive Resources Board

Rachel Campbell, Chairman
William Brennan, Member
Craig M. Keats, Member
Mai Dinh, Alternate Member

FOR FURTHER INFORMATION CONTACT: If you have any questions, please contact Jennifer Layne at *jennifer.layne@stb.gov* or 202–245–0340.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2022–16433 Filed 7–29–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2020–0068; Notice 2]

General Motors LLC, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition.

SUMMARY: General Motors LLC, (GM) has determined that certain model year (MY) 2017–2020 Cadillac XT5, MY 2020 Cadillac XT6, and MY 2017–2019 GMC Acadia motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 302, *Flammability of Interior Materials.* GM filed a noncompliance report dated May 29, 2020. GM subsequently petitioned NHTSA on June 19, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces the grant of GM's petition.

FOR FURTHER INFORMATION CONTACT: Kelley Adams-Campos, Safety Compliance Engineer, Office of Vehicle Safety Compliance, NHTSA, *kelley.adamscampos@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Overview: GM has determined that certain MY 2017–2020 Cadillac XT5, MY 2020 Cadillac XT6, and MY 2017–2019 GMC Acadia motor vehicles do not fully comply with the requirements of paragraphs S4.2 and S4.3(a) of FMVSS No. 302, *Flammability of Interior Materials* (49 CFR 571.302). GM filed a noncompliance report dated May 29, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* GM

subsequently petitioned NHTSA on June 19, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

Notice of receipt of GM's petition was published with a 30-day public comment period, in the **Federal Register** (86 FR 27957, May 24, 2021). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2020–0068.''

II. Vehicles Involved: Approximately 166,938 MY 2017–2020 Cadillac XT5, MY 2020 Cadillac XT6, and MY 2017–2019 GMC Acadia motor vehicles manufactured between October 29, 2015, and March 20, 2020, are potentially involved.

III. Noncompliance: GM explains that the noncompliance is that the subject vehicles are equipped with ventilated front seats that do not meet the flammability requirements set forth in paragraphs S4.2 and S4.3(a) of FMVSS No. 302. Specifically, when tested separately, one out of four composite layers had burn rates that ranged from 186 mm/min to 189 mm/min, exceeding the maximum burn rate of 102 mm/min.

IV. Rule Requirements: Paragraphs S4.2 and S4.3(a) of FMVSS No. 302 include the requirements relevant to this petition. Any portion of a single or composite material which is within 13 mm of the occupant compartment air space shall meet the requirements of S4.3. ''Occupant compartment air space'' means the space within the occupant compartment that normally contains refreshable air. The requirements of S4.3 shall be met when any material that does not adhere to other material(s) at every point of contact is tested separately, and when any material that does adhere to other material(s) at every point of contact is tested as a composite.

V. Summary of GM's Petition: The following views and arguments presented in this section, ''V. Summary of GM's Petition,'' are the views and arguments provided by GM and do not reflect the views of the Agency. GM describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, GM submitted the following:

1. Background:

Noncompliance Description: The seat cushions in the subject vehicles equipped with ventilated front seats fail to conform to FMVSS No. 302. Certain components and/or composite layers of the seat-vent mat assembly (''vent bags'') do not ''adhere to other material(s) at every point of contact,'' therefore, per S4.2.1 of FMVSS No. 302, must meet the requirements of S4.3 when tested separately. When tested separately, one of four layers did not meet the burn rate requirement. All other components of the seat required to meet FMVSS No. 302 comply with the standard.

The one noncompliant ''layer'' is a composite made up of four different materials with a fifth material, cushion scrim (''scrim''), located peripherally on the underside of the seat foam. The scrim's presence on a FMVSS No. 302 test sample depends on the location where the sample is cut for testing. The sample may not have any scrim if cut in the center, or it may have scrim if cut closer to the edges of the seat. (See Figure 6 of the petition). When the FMVSS No. 302 test sample is cut from an area containing the scrim, a very thin pressure sensitive adhesive tape (''adhesive tape'' or ''PSA tape'') does not comply with the flammability requirements because the scrim shields the flame from the self-extinguishing foam just above it. This combination of adhesive tape, scrim, and a small amount of foam only exists in an FMVSS No. 302 test sample and does not exist as a stand-alone group of materials exposed to flame as installed in the subject vehicles' seats. As installed in the seat, the very thin adhesive tape and scrim are roughly 11.4 mm from the occupant (refreshable) air space underneath the seat and are sandwiched among many other materials, including the self-extinguishing seat foam.

The Layers Tested: The vent bag assembly has four layers that must be tested separately for FMVSS No. 302. (See Figures 4A and 4B in the petition) Layer 1 is adjacent to the occupant (refreshable) air space under the seat. Layer 4 is closest to the seated occupant but furthest from the air space under the seat.

The following materials make up each layer, bottom to top:

- *Layer 1:* Composite; Bottom Felt plus Film (not adhered to all points of contact to layer 2; tested separately)
- *Layer 2:* Single; Filler (not adhered to all points of contact to layer 3; tested separately)
- *Layer 3:* Composite; Film plus Top Felt plus PSA tape plus Cushion Scrim plus Cushion Foam
- *Layer 4:* Composite; Same as layer 3 less the cushion scrim

The difference between Layers 3 and 4 is the presence of scrim. Unlike the other materials, the scrim is localized, resulting in two (2) different composite ''layers'' dependent on the seat foam cross section. The materials present in layer 3 and layer 4 are adhered at all points of contact and each layer is tested as a composite. The seat foam is cut to comply with S5.2.1, which requires a maximum composite thickness of 13 mm. One sample of each ''layer'' was taken from different locations on the seat to ensure one captured the scrim. Layer 3 was cut to capture scrim and layer 4 was cut closer to the center of the seat and does not capture any scrim. (See Figure 6 in the petition). The only layer that did not meet FMVSS No. 302 is layer 3, containing scrim. All other layers meet the burn rate requirements. When testing layer 3 in accordance with FMVSS No. 302, which required a flame applied directly to the felt-with-film liner, the burn rates ranged from 186 mm per minute to 189 mm per minute and did not pass the requirements of FMVSS No. 302 S4.3(a). Layer 4, however, which is the same composite but without the scrim, had a burn rate of only 12 mm per minute to 24 mm per minute when tested in the same manner. The higher burn rates for layer 3 were caused by the unique interaction of the adhesive tape, scrim, and truncated seat foam. The scrim is flame-retardant, but the thin layer of adhesive tape is not. In layer 3, the scrim shields the flame from interacting with, and being slowed down or extinguished by, the self-extinguishing foam above. With layer 4, which had a much lower burn rate, the foam has a bigger effect and significantly slows down the burn rate.

2. GM's Reasoning: GM describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety. In support of its petition, GM submitted the following:

a. The seat vent bag assembly as installed in the vehicle meets FMVSS No. 302 flammability requirements. The noncompliance is created not by the materials in the seat but by the unique way in which the 102 [1] x 356 mm section is selected for purposes of FMVSS No. 302 testing. When that section is taken from the edge of the seat, the 13-mm composite contains portions of scrim which, in combination

[1] In their petition, GM mistakenly refers to 102 mm as 100 mm.

with the adhesive tape, increases the burn rate of that sample, *i.e.,* layer 3. FMVSS No. 302 requires the flame to be applied directly to the felt-with-film liner, which is adjacent to the adhesive tape and cushion scrim, and that interaction limited the foam's ability to slow down the burn rate, exceeding the 102 mm per minute requirement.

In their installed application, however, the adhesive tape and scrim would never be exposed to an open flame because they are well encased from the air spaces below (and above) the seat by layers of self-extinguishing or FMVSS No. 302 compliant materials. Specifically, the scrim is encased by at least 11.4 mm of materials from the air space below. Encasing the scrim from the air space below are two layers of the felt-with-film liner composite, the filler, and the adhesive tape. Tested separately, the felt-with-film liner has a burn rate of 42 mm per minute and the filler is self-extinguishing. Moreover, the as-installed seat has more than 13 mm of self-extinguishing seat foam above the adhesive tape and scrim, and the scrim is localized and only exists in certain areas. Taken as a whole, the adhesive tape and scrim have a negligible effect on the overall burn rate. Layer 4 (same as layer 3 less the scrim) is a closer representation of the relative percentage of component materials and has a burn rate of only 12 mm per minute to 24 mm per minute.

The purpose of FMVSS No. 302 is to ''reduce the deaths and injuries to motor vehicle occupants caused by vehicle fires, especially those originating in the interior of the vehicle from sources such as matches or cigarettes.'' The combination of adhesive tape, scrim, and truncated seat foam that is causing the FMVSS No. 302 noncompliance would never be exposed to an open flame or an ignition source (like matches or cigarettes) in its installed application, because they are within and surrounded by FMVSS No. 302 complying materials. A flame emanating from the occupant (refreshable) air space below the seat must travel through the felt-with-film liner (described as layer 1 above) and the filler (described as layer 2 above) before even having the potential to contact the adhesive layer or scrim.

b. GM testing and design review of the vent bag assembly and its components indicate that the chance of fire or flame induced by a malfunctioning ventilator is essentially zero. Unlike the situation in Toyota's February 21, 2014, petition for inconsequentiality, which NHTSA granted, (*see* 80 FR 4035, January 26, 2015) there are no heater elements in GM's seat. In contrast, the subject seats contain a seat ventilator which circulates unheated air. The ventilator and associated motor are at least 27 mm from the adhesive tape and scrim and are separated by self-extinguishing and FMVSS No. 302 compliant materials. There is essentially zero risk that the seat ventilator or the associated motor could cause the seat materials to ignite.

c. As installed in the vehicle, the adhesive tape is a very small portion of the soft mass of the seat and has an insignificant (*i.e.,* negligible) adverse effect on the burn rate of the vent bag assembly. The adhesive tape is only 0.03% of the seat mass and is positioned within the seat material stack more than 11.4 mm from the occupant (refreshable) air space below. Therefore, the adhesive tape would have an insignificant adverse effect on the overall interior material burn rate and the potential for occupant injury due to interior fire.

d. The exact same seats with the exact same materials meet FMVSS No. 302 when assembled in a different manner, changing the composition of the composite test sample to include the filler (layer 2). Using a ''heated surface'' molding process, versus ''radio frequency'' welding used in the subject vehicles, the filler layer adheres at all points of contact to the upper felt-with-film material of layer 3 and layer 4. Unlike in the subject vehicles, where the filler layer was required to be tested separately, the filler layer becomes part of the composite sample for testing. The applied flame must travel through the self-extinguishing 10 mm thick filler layer prior to contacting the adhesive tape in the upper composite material. The new composite burn rate is self-extinguishing to 53 mm per minute.

e. GM is not aware of any injuries or customer complaints associated with this condition.

3. NHTSA has granted similar inconsequential petitions in the past. NHTSA has granted at least two petitions for inconsequentiality for similar issues: Toyota's February 2014 petition for inconsequential noncompliance (*see* 80 FR 4035, January 26, 2015), and Cosco Inc.'s 1998 petition for a similar issue. (*See* 63 FR 30809, June 5, 1998.)

4. Correction of Noncompliance: To address this noncompliance, GM's suppliers have begun to use the ''heated surface'' molding process which results in the filler and felt-with-film liner to be adhered at all points. Through testing, GM confirmed that the vent bags assembled with this process comply with S4.3(a) for FMVSS No. 302. This process will be used to correct the noncompliant vehicles in production and parts in service inventory. This noncompliance was addressed in production for all applicable vehicles manufactured on or after May 26, 2020.

GM concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

VI. NHTSA's Analysis: NHTSA has reviewed GM's analyses that the subject noncompliance is inconsequential to motor vehicle safety. The burden of establishing the inconsequentiality of a failure to comply with a performance requirement in a standard—as opposed to a labeling requirement—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[2] Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

An important issue to consider in determining inconsequentiality based upon NHTSA's prior decisions on noncompliance issues is the safety risk to individuals who experience the type of event against which the recall would otherwise protect.[3] NHTSA also does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. ''Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future.'' [4] ''[T]he fact that in past reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work.'' [5] NHTSA considered several

[2] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance,* 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[3] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance,* 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[4] *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance,* 81 FR 21663, 21666 (Apr. 12, 2016).

[5] *United States* v. *Gen. Motors Corp.,* 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it ''results in hazards as

Continued

factors specific to this petition and provides the following analysis:

1. The adhesive tape layer of the seat-vent mat assembly (''vent bag'') as installed in the subject vehicles is covered by more than 13 mm of self-extinguishing seat foam above and approximately 11.4 mm of combined felt-with-film liner (with a burn rate of 42 mm/min) and self-extinguishing filler below. These materials comply with FMVSS No. 302 thus, the adhesive tape is protected from contact with an ignition source originating from the occupant space.

2. When the same materials, having the same thicknesses, relative positioning and properties as those in the subject vehicles, are assembled such that the filler, *i.e.,* layer 2, is instead adhered to the upper felt-with-film liner at all points of contact, the resulting test sample, with a burn rate of self-extinguishing to 53 mm per minute, complies with FMVSS No. 302.

3. GM also stated that NHTSA has granted previous petitions whose facts align with those at issue in the instant case. These include a Toyota petition (80 FR 4035, January 26, 2015), and a Cosco petition (63 FR 30809, June 5, 1998). In each of these prior petitions, the noncompliant material would not normally be exposed to ignition sources in its installed application because it was surrounded by materials compliant with FMVSS No. 302 and the noncompliant material represented a small percentage (no greater than 1.1 percent in either case) of the interior fabric. NHTSA evaluates each petition on its individual facts and does not consider itself to be bound by these earlier grants. The relative measure, *i.e.,* percentage, of a material characteristic, *i.e.,* mass, surface area, thickness, etc. without consideration of other factors, *e.g.,* the surrounding of the noncompliant material with complying materials, does not alone mean such a material would not significantly fuel a fire upon exposure to an ignition source. Nonetheless, NHTSA has evaluated the subject petition and has made a determination in a similar fashion.

VII. NHTSA's Decision: In consideration of the foregoing, NHTSA finds that GM has met its burden of persuasion that the subject FMVSS No. 302 noncompliance in the affected vehicles is inconsequential to motor vehicle safety. Accordingly, GM's petition is hereby granted, and GM is consequently exempted from the obligation of providing notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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BILLING CODE 4910–59–P

potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future'').

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2022–0009]

OCC Policy Statement on Minority Depository Institutions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Policy statement.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its 2013 Policy Statement on Minority National Banks and Federal Savings Associations to update and streamline the description of its policies, procedures, and programs on minority depository institutions.

DATES: The issuance date of this policy statement is July 26, 2022.

FOR FURTHER INFORMATION CONTACT: Charlotte M. Bahin, Senior Advisor for Thrift Supervision, (202) 649–6281; or Karen E. McSweeney, Special Counsel, Emily Boyes, Counsel, (202) 649–5490; or Karen Bellesi, Director for Community Development, (202) 649–6420, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. For persons who are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Office of the Comptroller of the Currency (OCC or agency) recognizes the vital role of minority depository institutions (MDIs) in supporting the economic viability of the communities they serve, including but not limited to the economic viability of the minority individuals,[1] women, or other socially and economically disadvantaged individuals in those communities. By providing access to credit and other financial services to those who otherwise might not have sufficient access, MDIs are essential to the well-being of disadvantaged and underserved communities across America.[2]

Over the past decade, the OCC has demonstrated significant support for national banks and Federal savings associations (collectively, banks) that the agency has designated as MDIs.[3] For example, since 2011, the agency has administered the Minority Depository Institutions Advisory Committee (MDIAC), which is comprised of officers and directors of OCC-supervised MDIs and other banks committed to supporting MDIs.[4] The MDIAC provides the OCC with insight on the unique challenges MDIs face and advises the agency on ways to help ensure their continued health and sustainability.

In 2013, the OCC issued a policy statement on MDIs (2013 Policy Statement), reaffirming its commitment to their creation and preservation.[5] The

[1] For purposes of this preamble, the word ''individual'' means a natural person, corporation, partnership, or entity.

[2] Although MDIs account for a small share of banks and bank assets, a relatively large share of their branches and branch deposits are in socially vulnerable counties. *See, e.g., Minority Depository Institutions Have Vital Role Serving Vulnerable Communities,* Federal Reserve Bank of Dallas (Feb. 1, 2022), available at *https://www.dallasfed.org/research/economics/2022/0201.*

[3] ''Designation'' is the process by which the OCC classifies a bank as an MDI and is discussed in greater detail below.

[4] The MDIAC is a Federal advisory committee chartered under the Federal Advisory Committee Act. *See* 5 U.S.C. Appendix. The MDIAC replaced a similar advisory group established by the former Office of Thrift Supervision (OTS) prior to Congress' transfer of OTS' responsibilities for oversight of Federal savings associations to the OCC on July 21, 2011. *See* Title III, Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111–203, 124 Stat. 1376, 1520 (2010).

[5] *Policy Statement on Minority National Banks and Federal Savings Associations* (June 7, 2013),

2013 Policy Statement sets out the agency's MDI designation process, explains how the agency supports MDIs, and provides other useful information to stakeholders and interested parties.

In 2020, the OCC formed Project REACh,[6] which brings together leaders from banking, business, technology, and civil rights organizations to reduce specific barriers that prevent full, equal, and fair participation in the nation's economy.[7] One focus of Project REACh is to strengthen MDIs through a dedicated workstream that seeks to identify and address operational impediments to MDI creation and growth. Among other things, Project REACh provides MDIs with targeted technical assistance and help developing executive exchange programs; improving access to cost effective and shared services; and establishing revenue-generating partnerships and collaborations. Also in 2020, Congress created the Emergency Capital Investment Program (ECIP), which directed nine billion dollars to MDIs and certified Community Development Financial Institutions to, among other things, provide financial assistance for businesses and consumers in disadvantaged and underserved communities disproportionately impacted by the economic effects of the COVID–19 pandemic.[8]

Following the formation of Project REACh and establishment of ECIP, the OCC witnessed increased interest from banks and other stakeholders in working with MDIs and the MDI designation process. In response, the agency undertook a review of the 2013 Policy Statement to determine whether clarifications or other changes were necessary. This revised policy statement is a result of that review.

II. Background

Congress has long recognized the important role of MDIs in the U.S. banking system. For example, over 30 years ago, Congress enacted section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), which established goals to preserve, promote, encourage, and provide for MDIs.[9] Specifically, section 308 directs the Secretary of the U.S. Department of the Treasury (Treasury) to consult with the Comptroller of the Currency, Chairman of the Board of Governors of the Federal Reserve System (Board), Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation (FDIC), and Chairman of the National Credit Union Administration (NCUA) on the methods for best (1) preserving the present number of MDIs; (2) preserving MDIs' minority character in cases of merger or acquisition; (3) providing technical assistance to help MDIs remain healthy; (4) promoting and encouraging the creation of new MDIs; and (5) providing MDIs with training, technical assistance, and educational programs.[10] Section 308 also requires each referenced agency to submit an annual report to Congress describing its actions to carry out these goals.[11]

For purposes of OCC-regulated entities, section 308(b)(1) of FIRREA defines ''minority depository institution'' as (1) a national bank or Federal stock [12] savings association that is at least 51 percent owned (the ownership threshold) by one or more socially and economically disadvantaged individuals or (2) a Federal mutual savings association in which the majority of its board of directors, its account holders, and the community it serves is predominantly minority.[13] Section 308(b)(2) of FIRREA defines ''minority'' as ''any black American, Native American, Hispanic American, or Asian American.'' The statute does not define ''socially and economically disadvantaged individuals.''

As noted previously, the OCC's 2013 Policy Statement sets forth the agency's policy with respect to MDIs. It (1) incorporates the definitions of MDI from section 308 of FIRREA; (2) describes other Federal mutual savings associations that the OCC recognizes as MDIs as a matter of policy; and (3) recognizes the agency's discretion to treat previously designated national banks that no longer meet the ownership threshold as MDIs if they primarily serve the credit and other economic needs of a predominantly minority community. The 2013 Policy Statement defines ''minority'' [14] in the same way it is defined in section 308 of FIRREA and, also like section 308, does not define ''socially and economically disadvantaged individuals.'' The 2013 Policy Statement also (1) includes information about forming an OCC-supervised MDI; (2) describes the OCC's examination support for MDIs; (3) discusses banks' investments in MDIs pursuant to their respective investment authorities; (4) sets forth the agency's goals in the event of resolution of an MDI; (5) explains the role of the Community Reinvestment Act (CRA) in supporting MDIs; (6) describes the role and responsibilities of the MDIAC and other outreach efforts; (7) explains the information, education, and outreach resources available to MDIs from the OCC; and (8) explains that the OCC submits an annual report to Congress.

available at *https://www.occ.treas.gov/static/licensing/form-minority-owned-policy.pdf.* Previously, in 2001, the agency issued the *Policy Statement on Minority-Owned National Banks,* which (1) included information for persons interested in establishing an OCC-regulated MDI; (2) provided guidance on investing in MDIs; and (3) discussed available OCC examination support for MDIs. The 2001 policy statement defined ''minority-owned bank'' to include minority-owned or controlled national banks, as well as national banks owned, controlled, and operated by women, consistent with the U.S. Department of the Treasury's Bank Deposit Program. *See* Exhibit E to *A Guide to Tribal Ownership of a National Bank,* available at *https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/a-guide-to-tribal-ownership-of-a-national-bank.html.*

[6] Project REACh stands for the Roundtable for Economic Access and Change.

[7] Information about Project REACh is available at *https://www.occ.gov/topics/consumers-and-communities/minority-outreach/project-reach.html.*

[8] *See* Public Law 116–260, 134 Stat. 1182, 2079 (2020), codified at 12 U.S.C. 4703a.

[9] 12 U.S.C. 1463 (note).

[10] Prior to the Dodd-Frank Act, section 308 of FIRREA applied only to the FDIC and OTS. *See* Public Law 101–73, 103 Stat. 183, 353 (Aug. 9, 1989). Section 367 of the Dodd-Frank Act amended the scope of section 308 to include the OCC, Board, and NCUA and to remove the OTS. *See* Dodd-Frank Act, 124 Stat. at 1556. It should be noted, however, that the OCC recognized MDIs long before its inclusion in the scope of section 308.

[11] Congress added this requirement to FIRREA in section 367(4)(B) of the Dodd-Frank Act. *See* 124 Stat. at 1556. The OCC's 2020 *Report to Congress on Preserving and Promoting Minority Depository Institutions* is available at *https://www.occ.gov/publications-and-resources/publications/banker-education/files/2020-report-to-congress-minority-depository-instit.html.*

[12] Section 308(b) of FIRREA uses the terms ''privately owned'' MDI and ''publicly owned'' MDI and distinguishes these MDIs from MDIs that are mutual savings associations. In this preamble and the revised policy statement, the OCC uses the term ''stock'' to capture both privately and publicly owned MDIs and to distinguish them from MDIs that are mutual savings associations. A Federal stock savings association may be publicly or privately owned.

[13] Other federal statutes include other definitions of MDI. *See, e.g.,* 12 U.S.C. 2907. As a matter of policy, Federal agencies also recognize MDIs other than those specifically identified in section 308 of FIRREA. This includes OCC recognition of (1) Federal mutual savings associations where women comprise a majority of the Board of Directors and hold a significant percentage of senior management positions; and (2) previously designated MDIs, both as described in the OCC's current policy statement. In addition, the Board and the FDIC consider a bank to be an MDI if a majority of the bank's board of directors consists of minority individuals and the community that the bank serves is predominantly minority.

[14] The 2013 Policy Statement defines ''minority'' in essentially the same way that section 308 of FIRREA defines the term, except that FIRREA uses the term ''black American'' and the 2013 Policy Statement uses the term ''African American.'' For the purposes of this preamble and the revised policy statement, the OCC does not interpret this difference to be materially significant.

III. Revised Policy Statement

The OCC is issuing this revised policy statement, which replaces its 2013 Policy Statement, to update the description of the agency's MDI policies, procedures, and programs, including by removing obsolete references and streamlining the document.

Section 1. Introduction. The 2013 Policy Statement begins by recognizing the important role of MDIs in the communities they serve and affirming the agency's commitment to MDIs. In a section entitled ''Statutory Framework,'' the OCC describes the goals of section 308 of FIRREA and the agency's commitment to these goals. Similarly, the revised policy statement begins by recognizing the important role of MDIs in the communities they serve and affirming both the OCC's support for MDIs and the goals of section 308 of FIRREA.

Section 2. Meaning of MDI. In the ''Definition of MDIs'' section, the 2013 Policy Statement defines a ''minority depository institution'' as a national bank or Federal stock savings association that (1) is not a U.S. subsidiary of a foreign-owned bank and (2) is at least 51 percent owned by minorities, women, or socially and economically disadvantaged individuals. In this same section, the 2013 Policy Statement also states that when evaluating a Federal mutual savings association, the OCC may consider whether (1) the majority of its Board of Directors is minority and the communities it serves are predominantly minority or (2) women comprise a majority of its Board of Directors and hold a significant percentage of its senior management positions. The 2013 Policy Statement also states that the OCC, at its discretion, may continue to treat a national bank or Federal savings association previously designated as an MDI as covered by the policy statement even if the bank no longer meets the ownership threshold, provided it primarily serves the credit and other economic needs of the community in which it is chartered, and the community is predominantly minority.

Structural changes. The OCC has made a number of changes to streamline and clarify this section. First, the revised policy statement divides the discussion of types of MDIs into subsection A (which discusses national banks and Federal stock savings associations that are MDIs) and subsection B (which discusses Federal mutual savings associations that are MDIs).[15] Second, the revised policy statement moves the discussion about previously designated MDIs into section 3 (entitled ''Formation, Designation, and On-Going Review''), where all designation issues are addressed.

Minority individuals. As noted above, the 2013 Policy Statement defines and uses the word ''minority'' to reference four categories of individuals (African Americans, Asian Americans, Hispanic Americans, and Native Americans). The 2013 Policy Statement also uses the word ''minority'' as part of the term ''minority depository institution'' but, in this context, ''minority'' may have several possible meanings. To address any confusion caused by the use of the word ''minority,'' the revised policy statement uses (1) ''minority individual'' to mean the four categories of individuals discussed above and (2) ''minority'' to mean minority individuals, women, and other socially and economically disadvantaged individuals, including when ''minority'' is used in ''minority depository institution.'' The OCC does not intend for these changes to have a substantive effect but believes they clarify the document.

Federal mutual savings associations. The 2013 Policy Statement provides that the OCC may consider two categories of Federal mutual savings associations as MDIs. The first category is a Federal mutual savings association where a majority of its Board of Directors and the community it serves are predominantly minority. This description largely mirrors the definition in section 308 of FIRREA for MDIs that are Federal mutual savings associations, except that the statute also requires that the majority of savings association's account holders are minority individuals. In order to make this reference consistent with section 308, the revised policy statement adds the account holder element to this description.

Second, the 2013 Policy Statement provides that the OCC may consider a Federal mutual savings association an MDI if women comprise a majority of its Board of Directors and hold a significant percentage of its senior management positions. In the revised policy statement, the OCC expands this category of MDIs to include Federal mutual savings associations if (1) minority individuals or (2) other socially and economically disadvantaged individuals comprise a majority of the Board of Directors and hold a significant percentage of the senior management positions. The OCC is not aware of any reason to limit these composition requirements to women-led mutual MDIs. By expanding the definition, the revised policy statement creates parity for all Federal mutual savings associations covered and encourages the creation of new MDIs. Therefore, under the revised policy statement, a bank can satisfy its ownership threshold or composition component (as applicable, depending on whether the bank is a national bank, Federal stock savings association, or Federal mutual savings association) with reference to (1) minority individuals, (2) women, or (3) other socially and economically disadvantaged individuals.

Other socially and economically disadvantaged individuals. The 2013 Policy Statement references ''minorities, women, and socially and economically disadvantaged individuals.'' To clarify that minority individuals (which, as discussed above, references African Americans, Asian Americans, Hispanic Americans, and Native Americans) and women are examples of individuals that the OCC has determined are ''socially and economically disadvantaged,'' the revised policy statement includes the word ''other'' before the term ''socially and economically disadvantaged individuals.''

Section 3. Formation, Designation, and On-Going Review. In a section entitled ''Formation of MDIs,'' the 2013 Policy Statement briefly outlines some of the types of advice and technical assistance the OCC provides to individuals interested in a bank charter and an MDI designation. It also explains that certain MDIs may be eligible for designation as a community development bank and why this is advantageous. The 2013 Policy Statement does not explain how an MDI is formed or designated. The OCC believes that this information would be helpful to stakeholders and other interested parties, and the revised policy statement includes a discussion of these topics.

De novo bank formation and designation. Specifically, in subsection A of section 3, the revised policy statement explains that the process of forming a de novo bank designated as an MDI involves two steps: an applicant must (1) file an application and receive approval to form a bank and then (2) request to be designated as an MDI. If the OCC determines that all of the applicable requirements are met, the OCC will provide (1) a letter approving

[15] The revised policy statement also moves the statement that an MDI may not be a U.S. subsidiary of a foreign-owned bank to a footnote. Under both the 2013 Policy Statement and the revised policy statement, this requirement applies to all MDIs in all situations.

the formation of the bank and (2) a separate letter approving the MDI designation. The revised policy statement also explains that for individuals interested in this process, the OCC offers advice and technical assistance, including through pre-filing and exploratory meetings, and directs requests for assistance to OCC Licensing.

Designation of existing banks. In subsection B of section 3, the revised policy statement explains that an existing bank that believes it qualifies as an MDI also may request designation from the OCC. If the OCC determines that the bank satisfies the applicable requirements, the agency will provide the bank with an MDI designation letter. The revised policy statement explains that the OCC offers advice and technical assistance to banks interested in MDI designation and explains that requests for assistance should be directed to the MDIAC Designated Federal Officer.

Continued designation. The ''Definition of MDIs'' section of the 2013 Policy Statement states that the OCC, at its discretion, may continue to treat a previously designated bank as an MDI even if the bank no longer meets the ''ownership'' threshold, provided that (1) the bank primarily serves the credit and other economic needs of the community in which it is chartered and (2) the community is predominantly minority. In subsection C of section 3, the revised policy statement addresses continued designation but includes several changes from the 2013 Policy Statement.

First, by referencing ''ownership,'' the 2013 Policy Statement limits the continued designation option to national banks and Federal stock savings association, to the exclusion of Federal mutual savings associations. The OCC is not aware of any reason that continued designation should exclude Federal mutual savings associations, and the revised policy statement provides that the OCC can exercise its discretion to continue to designate a previously designated bank, regardless of the type of bank.

Second, the 2013 Policy Statement provides the OCC with discretion to treat a bank previously designated as an MDI as covered by the 2013 Policy Statement, even if the bank no longer meets the ownership criteria, if (1) the bank primarily serves the credit and other economic needs of the community in which it is chartered; and (2) the bank's community is predominantly minority. In the revised policy statement, the OCC revises the wording of both prongs of this statement. Specifically, prong (1) states that the agency has the discretion to continue to designate a bank as an MDI if the bank ''supports the economic viability'' of its community. The agency believes that this change more effectively highlights the important role of MDIs in supporting the economic viability of their communities, of which the services the MDIs provide may only be a part. Prong (2) of the revised policy statement provides that continued designation is possible if the community the bank serves is comprised predominantly of minority individuals, women, or other socially and economically disadvantaged individuals. This change reflects the fact that the communities MDIs serve include not only minority individuals, but also women and other socially and economically disadvantaged individuals.

On-going review. The revised policy statement explains that the OCC, on an annual basis, reviews whether a bank designated as an MDI continues to satisfy the meaning of MDI described in section 2 or whether continued designation is appropriate. Although there is no similar provision in the 2013 Policy Statement, this practice ensures that banks designated as MDIs continue to merit such designation.

Community development banks. Finally, as noted previously, the 2013 Policy Statement includes a discussion of community development banks. In the revised policy statement, the OCC removes this discussion because it is outside of the scope of this policy statement. This change has, however, no substantive effect.

Section 4. List of OCC-Supervised MDIs and Related Information. Both the 2013 Policy Statement and the revised policy statement state that the OCC maintains a list of the MDIs it supervises, along with related information, at *www.occ.gov.* There are no material changes to this section.

Section 5. Support for MDIs. In a section entitled ''Examination Support for MDIs,'' the 2013 Policy Statement explains that the OCC annually develops a supervisory strategy for each MDI based on its unique risk profile and need for technical assistance, training, and education. This section also outlines how the OCC assigns managers, examiners, and expert advisors responsible for MDI supervision; provides guidance to MDIs; exchanges relevant information and best practices; and keeps up-to-date on important topics and emerging concerns about MDIs.

The revised policy statement includes several structural changes to this section. It changes the section's heading to ''Support for MDIs'' to align with its focus and moves information related to MDI strategy and support from the 2013 Policy Statement's ''Resolution'' section to this section. The revised policy statement also sets forth examples of support provided to MDIs in section 5, as well as streamlines the information presented, as necessary to promote greater clarity and transparency.

The 2013 Policy Statement includes a section entitled ''Capital for MDIs,'' which states that the OCC supports banks' investments in MDIs pursuant to their public welfare investment authorities and such investments may receive positive consideration under CRA. In another section, entitled ''Supporting MDIs through the Community Reinvestment Act,'' the 2013 Policy Statement notes that majority-owned institutions are often key partners with MDIs and that, for purposes of CRA, the OCC considers capital investment, loan participation, and other ventures undertaken in cooperation with MDIs, if such activities help meet the credit needs of the MDIs' communities.

In the revised policy statement, the information from these two sections is combined and updated in new section 5. The revised section acknowledges that depository institutions that are not MDIs (non-minority depository institutions or NMDIs) are often key partners with MDIs and notes that the OCC actively supports relationships between MDIs and NMDIs and provides resources to help identify relevant partnership opportunities.

This section also provides a streamlined description of the types of support that a NMDI can provide to MDIs. It provides examples of direct and indirect financial support that NMDIs can provide through an applicable investment authority, including investing in MDI-issued subordinated debt; placing deposit funds in an MDI; purchasing MDI-issued capital stock; and engaging in a loan participation with an MDI. It also describes other types of support an NMDI can provide, including collaborating with MDIs on products and services (*e.g.,* in-kind services that aid an MDI in serving its customers) and contributing excess real estate to MDIs (*e.g.,* surplus branch facilities). These examples are intended to provide stakeholders with clear and useful information.

In addition, the revised policy statement states that the OCC considers capital investments, loan participations, and other ventures undertaken by NMDIs in cooperation with minority- and women-owned financial institutions and low-income credit

unions,[16] provided the activities help meet the credit needs of the local communities served by the financial institutions or credit unions. In addition, as discussed in the revised policy statement, NMDIs that invest in MDIs may receive positive consideration under the CRA.

Section 6. Attribution of Investments for Purposes of the Ownership Threshold. The 2013 Policy Statement does not address when an individual's investment in an MDI can be attributed to the MDI for purposes of the ownership threshold. To address this issue, the revised policy statement states that an investment in an MDI by a natural person may be attributed to the MDI ownership threshold only if the natural person is a minority individual, woman, or other socially and economically disadvantaged individual.[17] An investment in an MDI by a corporation, partnership, or other entity may be attributed to the MDI ownership threshold only if the corporation, partnership, or entity is (1) also an MDI or (2) at least 51 percent owned by one or more minority individuals, women, or other socially and economically disadvantaged individuals. The revised policy statement includes in a footnote an example of how this method of attribution would work, stating that an investment in an MDI by a private equity fund would count toward the 51 percent ownership threshold requirement only if the fund itself is at least 51 percent owned by one or more minority individuals, women, or other socially and economically disadvantaged individuals. This method of attribution is designed to ensure that the special character of an MDI is not diluted by investments in the MDI.

Section 7. Resolution of Supervisory Cases. The 2013 Policy Statement explains that in resolving a supervisory case involving an MDI, the OCC encourages remedies, including mergers and acquisitions, which are consistent with the MDI's safety and soundness and the goal of maintaining its minority ownership. The revised policy statement includes a similar explanation, streamlined for clarity, stating that in the unlikely event that the OCC must resolve an MDI, the agency seeks remedies (including mergers and acquisitions) that are consistent with and aim to maintain the MDI's safety and soundness and its character, in accordance with the goals of section 308 of FIRREA. These changes do not signal a policy change.

Section 8. The MDIAC and Other MDI-Focused Initiatives. The 2013 Policy Statement includes a discussion of OCC initiatives that, as of 2013, provided support to MDIs and helped inform agency decision-making with respect to MDIs. The revised policy statement updates this information and removes obsolete references where appropriate. Specifically, the revised policy statement discusses (1) the MDIAC, including the role of the MDIAC Designated Federal Officer; (2) the OCC's Director of Minority Outreach; (3) the agency's Minority Depository Institution Collaboration Initiative; (4) Project REACh; and (5) the OCC's District Community Affairs Officers.

Section 9. Consultation and Annual Report. The 2013 Policy Statement states that the OCC consults with the Secretary of the Treasury on achieving the goals of section 308 of FIRREA and, as required by law, submits an annual report to Congress on actions take to carry out those goals. The revised policy statement includes this information and adds that the OCC's Director of Minority Outreach is responsible for submitting the annual report to Congress.

Section 10. Conclusion. Both the 2013 Policy Statement and the revised policy statement conclude with a statement of support for MDIs.

The text of the policy statement is as follows:

OCC Policy Statement on Minority Depository Institutions

1. Introduction

Minority depository institutions (MDIs) are national banks and Federal savings associations (banks) that support the economic viability of the communities they serve, including but not limited to the minority individuals, women, or other socially and economically disadvantaged individuals in those communities.

The Office of the Comptroller of the Currency (OCC or agency) recognizes the important role of MDIs in the communities they serve and, consistent with the agency's mission to ensure a safe and sound Federal banking system, the OCC actively supports MDIs through a number of initiatives. The agency's efforts to support MDIs also reflect its commitment to the goals of section 308 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).[1]

2. Meaning of MDI[2]

A. *National banks or Federal stock savings associations.*[3] The OCC defines an MDI to include a national bank or Federal stock savings association that is at least 51 percent owned by one or more minority individuals, women, or other socially and economically disadvantaged individuals.[4]

B. *Federal mutual savings associations.* The OCC—

i. Defines an MDI to include a Federal mutual savings association (1) where minority individuals comprise a majority of both its Board of Directors and its account holders and (2) that serves the credit and other economic needs of a community comprised predominantly of minority individuals; and

ii. Considers a Federal mutual savings association to be an MDI if (1) a majority of its Board of Directors is comprised of minority individuals, women, or other socially and economically disadvantaged individuals and (2) minority individuals, women, or other socially and economically disadvantaged individuals hold a significant percentage of its senior management positions.

3. Formation, Designation, and On-Going Review

A. De novo bank formation and designation. The process of forming a de novo bank that is designated as an MDI involves two steps: an applicant must (1) file an application and receive approval to form a bank and (2) request that the bank be designated as an MDI. If the OCC determines that all of the applicable requirements are met, the OCC will provide (1) a letter approving the formation of a bank and (2) a separate MDI designation letter. For individuals interested in this process, the OCC offers advice and technical assistance, including guidance on determining whether the applicant

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[16] *See* 12 U.S.C. 2903(b).

[17] As noted previously, (1) ''individual'' means a natural person, corporation, partnership or entity and (2) ''woman'' and ''women'' incorporate the definition of ''individual'' and are not limited to natural persons.

[1] 12 U.S.C. 1463 (note). The goals of section 308 are to preserve the number of MDIs; preserve MDIs minority character in cases of merger or acquisition; provide technical assistance to help MDIs remain healthy; promote and encourage the creation of new MDIs; and provide training, technical assistance, and educational programs.

[2] In addition to the other requirements discussed in this policy statement, an MDI may not be a U.S. subsidiary of a foreign-owned bank.

[3] A Federal stock savings association may be publicly or privately owned.

[4] For purposes of this policy statement, ''individual'' means a natural person, corporation, partnership or entity. ''Minority individual'' means a black American, Native American, Hispanic American, or Asian American individual. Therefore, a bank that is owned by a minority-owned corporation is owned by a minority individual. ''Women'' incorporates the definition of ''individual'' and is not limited to natural persons. Therefore, a bank that is owned by a women-owned corporation is owned by women.

satisfies the meaning of MDI as set forth in section 2 of this policy statement, through pre-filing and exploratory meetings. Requests for assistance should be directed to OCC Licensing.

B. Designation of existing banks. A bank that believes it satisfies the meaning of MDI as set forth in section 2 of this policy statement may request the OCC designate it as an MDI. If the OCC determines the bank satisfies the meaning of MDI, the agency will provide the bank with an MDI designation letter. For banks interested in this process, the OCC offers advice and technical assistance, including guidance on determining whether the bank satisfies the meaning of MDI. Requests for assistance should be directed to the Minority Depository Institution Advisory Committee Designated Federal Officer.

C. Continued designation. At its discretion, the OCC may continue to designate as an MDI a bank that no longer satisfies the meaning of MDI as set forth in section 2 of this policy statement if the bank supports the economic viability of a community comprised predominantly of minority individuals, women, or other socially and economically disadvantaged individuals.

D. On-going review. On an annual basis, the OCC reviews whether (1) a bank designated as an MDI continues to satisfy the meaning of MDI as set forth in section 2 of this policy statement or (2) continued designation is appropriate.

4. List of OCC-Supervised MDIs and Related Information

The OCC maintains a list of OCC-supervised MDIs and information about MDI initiatives and related events on its website at *www.occ.gov.*

5. Support for MDIs

The OCC develops an annual strategy to support MDIs. The strategy is designed to support their financial vitality and safe and sound operations and to address unique risks facing MDIs. As needed, the OCC supports MDIs by providing training, technical assistance, and educational programs in such areas as compliance, risk management, and operations.

The OCC recognizes that depository institutions that are not MDIs (non-minority depository institutions or NMDIs) can be key partners with MDIs. The agency actively supports these relationships, which can be valuable tools for assisting MDIs, and provides resources to help identify relevant partnership opportunities.

For example, NMDIs may provide direct or indirect financial support for MDIs through an applicable investment authority.[5] This type of support includes an NMDI (1) investing in subordinated debt issued by an MDI; (2) placing deposit funds in an MDI; (3) purchasing MDI-issued capital stock (*e.g.,* common or preferred stock); and (4) engaging in a loan participation with an MDI. Other types of support that an NMDI can offer include collaborating with an MDI on products and services (*e.g.,* in-kind services that aid an MDI in serving its customers) and contributing excess real estate to an MDI (*e.g.,* surplus branch facilities).

In assessing the record of an NMDI under the Community Reinvestment Act (CRA) and its implementing regulations,[6] the OCC considers capital investments, loan participations, and other ventures undertaken in cooperation with minority- and women-owned financial institutions and low-income credit unions if such activities help meet the credit needs of the local communities served by the MDI or low-income credit union. NMDIs that invest in MDIs may receive positive consideration under the CRA if those investments are consistent with the requirements of the CRA and its implementing regulations.

6. Attribution of Investments for Purposes of the Ownership Threshold

An investment in an MDI by a natural person may be attributed to the MDI ownership threshold only if the natural person is a minority individual, woman, or other socially and economically disadvantaged individual.

An investment in an MDI by a corporation, partnership, or entity may be attributed to the MDI ownership threshold only if the corporation, partnership, or entity is (1) also an MDI or (2) at least 51 percent owned by one or more minority individuals, women, or other socially and economically disadvantaged individuals.[7]

7. Resolution of Supervisory Cases

In the unlikely event that it is necessary to resolve an MDI, the OCC seeks remedies (including mergers and acquisitions) that are consistent with and aim to maintain the MDI's safety and soundness and its character, in accordance with the goals of section 308 of FIRREA.

8. Minority Depository Institution Advisory Committee and Other MDI-Focused Initiatives

In addition to the initiatives discussed above, the OCC's Minority Depository Institution Advisory Committee (MDIAC) and other MDI-focused initiatives also help to support MDIs. Information about these initiatives can be found on the website at *www.occ.gov* and include the following:

A. MDIAC. The MDIAC is an OCC-chartered advisory committee organized in accordance with the Federal Advisory Committee Act (FACA).[8] The MDIAC includes officers and directors of MDIs and other depository institutions committed to supporting MDIs and provides advice to the OCC on meeting the goals in section 308 of FIRREA. As required by FACA, the OCC has an MDIAC Designated Federal Officer, who is responsible for the MDIAC and serves as the OCC's primary point of contact on MDI matters.

B. Director of Minority Outreach. The OCC's Director of Minority Outreach coordinates the agency's interdepartmental and interagency outreach efforts, including interagency conferences and other activities.

C. Minority Depository Institution Collaboration Initiative. The OCC's Minority Depository Institution Collaboration Initiative promotes collaboration and relationships between MDIs and larger NMDIs and is designed to provide access to products and services that promote empowerment to disadvantaged and underserved communities, economic independence, job creation, and community development/revitalization. This initiative is coordinated by the OCC's Midsize and Community Bank Supervision (MCBS) staff.

D. Project Roundtable for Economic Access and Change (REACh). The OCC-established Project REACh promotes financial inclusion through greater access to credit and capital. Project REACh brings together leaders from the banking industry, national civil rights organizations, other businesses, and the technology industry to reduce specific barriers that prevent full, equal, and fair participation in the nation's economy. Project REACh supports MDIs through its MDI Revitalization Workstream, which addresses the challenges MDIs face in accessing capital, expanding

[5] *See, e.g.,* national banks' public welfare investment authority (12 CFR part 24) and Federal savings associations' community development investment authority (12 CFR 160.36).

[6] *See* 12 U.S.C. 2901 *et seq.* and 12 CFR part 25.

[7] *See supra* note 4 (meaning of ''individual,'' ''minority individual,'' and ''women''). For example, an investment in an MDI by a private equity fund would count toward the 51 percent ownership threshold only if the fund itself is at least 51 percent owned by one or more minority individuals, women, or other socially and economically disadvantaged individuals.

[8] *See* 5 U.S.C. appendix 2.

technology capabilities, and modernizing infrastructure. Project REACh is coordinated by the OCC's Director of Minority Outreach. Information on Project REACh is available at Project REACh.

E. District Community Affairs Officers. The OCC's District Community Affairs Officers provide advice and technical assistance to MDIs interested in structuring community development investments and initiatives and identifying opportunities for relationships between NMDIs and MDIs.

9. Consultation and Annual Report

The Secretary of the U.S. Department of the Treasury consults with the Comptroller of the Currency, under section 308 of FIRREA, on the methods for best achieving the goals of section 308 of FIRREA. The law also directs the OCC to submit an annual report to Congress on the actions taken to carry out these goals. The OCC's Director of Minority Outreach is responsible for submitting the annual report to Congress.

10. Conclusion

The OCC recognizes the important role of MDIs in the communities they serve and actively supports MDIs through the initiatives discussed above.

Michael J. Hsu,

Acting Comptroller of the Currency.

Dated: July 26, 2022.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2022–16345 Filed 7–29–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice of Prompt Payment Interest Rate; Contract Disputes Act.

SUMMARY: For the period beginning July 1, 2022, and ending on December 31, 2022, the prompt payment interest rate is 4 per centum per annum.

DATES: Effective July 1, 2022, to December 31, 2022.

ADDRESSES: Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW, Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov*.

FOR FURTHER INFORMATION CONTACT: Thomas M. Burnum, E-Commerce Division, (202) 874–6430; or Thomas Kearns, Senior Counsel, Office of the Chief Counsel, (202) 874–7036.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning July 1, 2022, and ending on December 31, 2022, is 4 per centum per annum.

Timothy E. Gribben,

Commissioner, Bureau of the Fiscal Service.

[FR Doc. 2022–16453 Filed 7–29–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2022–26

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Superfund; Imported Substances; Procedures for Filing a Petition.

DATES: Written comments should be received on or before September 30, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–2304-Superfund; Imported Substances; Procedures for Filing a Petition'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Superfund; Imported Substances; Procedures for Filing a Petition.

OMB Number: 1545–2304.

Revenue Procedure Number: 2022–26.

Abstract: Section 4672(a)(2) of the Code allows importers and exporters to petition the Secretary of the Treasury to modify the list of chemical substances subject to the section 4671 excise taxes. The collection of information in this revenue procedure is necessary so that the Secretary of the Treasury has sufficient information to process these determination requests. Petitioners are importers or exporters of chemical substances, and interested parties.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and Individuals or households.

Estimated Number of Responses: 1,000.

Estimated Average Time per Response: 45 min.

Estimated Total Annual Burden Hours: 75,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 25, 2022.

Martha R. Brinson

Tax Analyst.

[FR Doc. 2022–16394 Filed 7–29–22; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INSTITUTE OF PEACE

Notice of Board of Directors Meeting

AGENCY: United States Institute of Peace (USIP) and Endowment of the United States Institute of Peace.

ACTION: Announcement of meeting.

SUMMARY: Virtual meeting of the Board of Directors.

DATES: Tuesday, August 2, 2022 (2 p.m.–3 p.m. EST).

ADDRESSES: Virtual Board Meeting Information: Join ZoomGov Meeting: *https://usip-org.zoomgov.com/j/1614567867?pwd=WGxXdDQ3NklxR0taWjVwdUZ5UUxXQT09,* Meeting ID: 161 456 7867.

FOR FURTHER INFORMATION CONTACT: Megan O'Hare, 202–429–4144, *mohare@usip.org.*

SUPPLEMENTARY INFORMATION: Open Session—Portions may be closed pursuant to subsection (c) of section 552b of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Authority: 22 U.S.C. 4605(h)(3).

Dated: July 26, 2022.

Rebecca Fernandes,

Director of Accounting.

[FR Doc. 2022–16435 Filed 7–29–22; 8:45 am]

BILLING CODE 2810–03–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, that a virtual meeting of the Advisory Committee on Disability Compensation (Committee) be held on September 20–September 21, 2022. The meeting sessions will begin and end as follows:

Date:	Times:
Tuesday, September 20, 2022.	9:00 a.m.–12:00 p.m. Eastern Standard Time (EST).
Wednesday, September 21, 2022.	9:00 a.m.–12:00 p.m. EST.

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The agenda will include updates on the VA Schedule for Rating Disabilities and briefings from various staff on new and ongoing VA initiatives and priorities.

No time will be allocated at this virtual meeting for receiving oral presentations from the public. The public may submit one-page summaries of their written statements for the Committee's review. Public comments may be received no later than September 5, 2022, for inclusion in the official meeting record. Please send these comments to Sian Roussel of the Veterans Benefits Administration, Compensation Service, at *sian.roussel@va.gov.*

Members of the public who wish to obtain a copy of the agenda should contact Sian Roussel at *Sian.Roussel@va.gov* and provide their name, professional affiliation, email address and phone number. The call-in number (United States, Chicago) for those who would like to attend the meeting (audio only) is +1 872–701–0185; phone conference ID: 705 830 563#.

Dated: July 27, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–16450 Filed 7–29–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Tribal and Indian Affairs, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2., that the Advisory Committee on Tribal and Indian Affairs will meet on August 15, 16 and 17, 2022. The meeting session will begin and end as follows:

Date:	Time:
August 15, 2022	8:30 a.m.–5:00 p.m.—Mountain Standard Time (MST).
August 16, 2022	8:30 a.m.–5:00 p.m. MST.
August 17, 2022	8:30 a.m.–5:00 p.m. MST.

Sessions are open to the public (virtually), except during the time the Advisory Committee is conducting tours of VA facilities, participating in off-site events, and site visits. Tours of VA facilities are closed, to protect Veterans' privacy and personal information, in accordance with 5 U.S.C Sec. 552b(c)(6).

The purpose of the Committee is to advise the Secretary on all matters relating to Indian Tribes, tribal organizations, Native Hawaiian organizations, and Native American Veterans. This includes advising the Secretary on the administration of healthcare services and benefits to American Indians and Alaska Native Veterans; thereby assessing those needs and whether VA is meeting them. The Advisory Committee on Tribal and Indian Affairs is a newly established FACA Committee. The Committee provides advice and guidance to the Secretary of Veterans Affairs on all matters relating to Indian tribes, tribal organizations, Native Hawaiian organizations, and Native American Veterans.

On August 15, 2022, from 8:30 a.m. to 11:30 a.m. MST, the Committee will

meet in open session with key staff from the Albuquerque Veterans Benefits Administration (VBA), held at the Albuquerque VBA Regional Office, 500 Gold Ave SW, Albuquerque, NM 87102. The agenda will include opening remarks from the Committee Chair, Executive Sponsor, and other VA officials. There will be updates from the Benefits & NCA Subcommittee for discussion. From 1:30 p.m. to 5:00 p.m. MST, the Committee will convene with closed tour of the Santa Fe National Cemetery and New Mexico State Department of Veterans Affairs, and Santa Fe Indian Hospital.

On August 16, 2022, from 8:30 a.m. to 11:30 a.m. MST, the Committee will convene at the Albuquerque VBA Regional Office, and receive updates from the Administrative Subcommittee for discussion. From 11:30 a.m. to 12:00 p.m. there will be Public Comment from those public members who have provided a written summary. From 1:30 p.m. to 5:00 p.m. MST, the Committee will convene with closed tour of the Albuquerque VBA site visits.

On August 17, 2022, from 8:30 a.m. to 11:30 a.m. MST, the Committee the Committee will convene at the Albuquerque VBA Regional Office and receive updates from the Health Subcommittee for discussion. The committee will hold open discussion on topics relevant to the Committee and address follow-up and action items including dates for next meeting. From 1:30 p.m. to 5:00 p.m. MST, the Committee will convene with closed tour of the VA Medical Center, Indian Health Service Albuquerque Indian Hospital and the First Nations Community HealthSource.

The meetings are open to the public and will be recorded. Members of the public can attend the meeting by joining the Zoom meeting at the link below. The link will be active from 8:30 a.m. to 11:30 a.m. (MST) daily, August 15–17, 2022.

Meeting Link: *https://www.zoomgov.com/meeting/register/vJItcemorDsiHsBDNVC44DrH95ysOiNtdgo*.

Individuals who speak are invited to submit a 1–2-page summary of their comments no later than August 5, 2022, for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Mr. David Clay Ward, at *david.ward@va.gov*. Any member of the public seeking additional information should contact Mr. David Clay Ward at 202–461–7445.

Dated: July 27, 2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–16449 Filed 7–29–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 87 Monday,
No. 146 August 1, 2022

Part II

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Part 412

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2023 and Updates to the IRF Quality Reporting Program; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1767–F]

RIN 0938–AU78

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2023 and Updates to the IRF Quality Reporting Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule updates the prospective payment rates for inpatient rehabilitation facilities (IRFs) for Federal fiscal year (FY) 2023. As required by statute, this final rule includes the classification and weighting factors for the IRF prospective payment system's case-mix groups and a description of the methodologies and data used in computing the prospective payment rates for FY 2023. In addition, this final rule codifies CMS' existing teaching status adjustment policy through amendments to the regulation text and updates and clarifies the IRF teaching policy with respect to IRF hospital closures and displaced residents. This rule establishes a permanent cap policy to smooth the impact of year-to-year changes in IRF payments related to decreases in the IRF wage index. This final rule also includes updates for the IRF Quality Reporting Program (QRP).

DATES:

Effective date: These regulations are effective on October 1, 2022.

Applicability dates: The updated IRF prospective payment rates are applicable for IRF discharges occurring on or after October 1, 2022, and on or before September 30, 2023 (FY 2023).

FOR FURTHER INFORMATION CONTACT:

Gwendolyn Johnson, (410) 786–6954, for general information.

Catie Cooksey, (410) 786–0179, for information about the IRF payment policies and payment rates.

Kim Schwartz, (410) 786–2571, and Gwendolyn Johnson, (410) 786–6954, for information about the IRF coverage policies.

Ariel Cress, (410) 786–8571, for information about the IRF quality reporting program.

SUPPLEMENTARY INFORMATION:

Availability of Certain Information Through the Internet on the CMS Website

The IRF prospective payment system (IRF PPS) Addenda along with other supporting documents and tables referenced in this final rule are available through the internet on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS.*

We note that prior to 2020, each rule or notice issued under the IRF PPS has included a detailed reiteration of the various regulatory provisions that have affected the IRF PPS over the years. That discussion, along with detailed background information for various other aspects of the IRF PPS, is now available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS.*

I. Executive Summary

A. Purpose

This final rule updates the prospective payment rates for IRFs for FY 2023 (that is, for discharges occurring on or after October 1, 2022, and on or before September 30, 2023) as required under section 1886(j)(3)(C) of the Social Security Act (the Act). As required by section 1886(j)(5) of the Act, this final rule includes the classification and weighting factors for the IRF PPS's case-mix groups (CMGs) and a description of the methodologies and data used in computing the prospective payment rates for FY 2023. This final rule codifies CMS' existing teaching status adjustment policy through amendments to the regulation text and updates and clarifies the IRF teaching policy with respect to IRF hospital closures and displaced residents. We also establish a permanent cap policy to smooth the impact of year-to-year changes in IRF payments related to decreases in the IRF wage index. This rule also requires quality data reporting on all IRF patients beginning with the FY 2026 IRF QRP and amends the regulations consistent with the requirements. This final rule also corrects an error in the regulations text at § 412.614(d)(2).

B. Summary of Major Provisions

In this final rule, we use the methods described in the FY 2022 IRF PPS final rule (86 FR 42362) to update the prospective payment rates for FY 2023 using updated FY 2021 IRF claims and the most recent available IRF cost report data, which is FY 2020 IRF cost report data. This final rule codifies CMS' existing teaching status adjustment policy through amendments to the regulation text and updates and clarifies the IRF teaching status adjustment policy with respect to IRF hospital closures and displaced residents.

We establish a permanent cap policy to smooth the impact of year-to-year changes in IRF payments related to decreases in the IRF wage index. This final rule also requires quality reporting data for all IRF patients beginning with the FY 2026 IRF QRP and revises the regulations accordingly.

C. Summary of Impact

TABLE 1: Cost and Benefit

Provision Description	Transfers/Costs
FY 2023 IRF PPS payment rate update	The overall economic impact of this final rule is an estimated $275 million in increased payments from the Federal Government to IRFs during FY 2023.
FY 2026 IRF QRP changes	The overall economic impact of this final rule is an estimated increase in cost to IRFs of $31,783,532.15 beginning with FY 2026.

II. Background

A. Statutory Basis and Scope for IRF PPS Provisions

Section 1886(j) of the Act provides for the implementation of a per-discharge PPS for inpatient rehabilitation hospitals and inpatient rehabilitation units of a hospital (collectively, hereinafter referred to as IRFs). Payments under the IRF PPS encompass inpatient operating and capital costs of furnishing covered rehabilitation services (that is, routine, ancillary, and capital costs), but not direct graduate medical education costs, costs of approved nursing and allied health education activities, bad debts, and

other services or items outside the scope of the IRF PPS. A complete discussion of the IRF PPS provisions appears in the original FY 2002 IRF PPS final rule (66 FR 41316) and the FY 2006 IRF PPS final rule (70 FR 47880) and we provided a general description of the IRF PPS for FYs 2007 through 2019 in the FY 2020 IRF PPS final rule (84 FR 39055 through 39057). A general description of the IRF PPS for FYs 2020 through 2022, along with detailed background information for various other aspects of the IRF PPS, is now available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS.*

Under the IRF PPS from FY 2002 through FY 2005, the prospective payment rates were computed across 100 distinct CMGs, as described in the FY 2002 IRF PPS final rule (66 FR 41316). We constructed 95 CMGs using rehabilitation impairment categories (RICs), functional status (both motor and cognitive), and age (in some cases, cognitive status and age may not be a factor in defining a CMG). In addition, we constructed five special CMGs to account for very short stays and for patients who expire in the IRF.

For each of the CMGs, we developed relative weighting factors to account for a patient's clinical characteristics and expected resource needs. Thus, the weighting factors accounted for the relative difference in resource use across all CMGs. Within each CMG, we created tiers based on the estimated effects that certain comorbidities would have on resource use.

We established the Federal PPS rates using a standardized payment conversion factor (formerly referred to as the budget-neutral conversion factor). For a detailed discussion of the budget-neutral conversion factor, please refer to our FY 2004 IRF PPS final rule (68 FR 45684 through 45685). In the FY 2006 IRF PPS final rule (70 FR 47880), we discussed in detail the methodology for determining the standard payment conversion factor.

We applied the relative weighting factors to the standard payment conversion factor to compute the unadjusted prospective payment rates under the IRF PPS from FYs 2002 through 2005. Within the structure of the payment system, we then made adjustments to account for interrupted stays, transfers, short stays, and deaths. Finally, we applied the applicable adjustments to account for geographic variations in wages (wage index), the percentage of low-income patients, location in a rural area (if applicable), and outlier payments (if applicable) to the IRFs' unadjusted prospective payment rates.

For cost reporting periods that began on or after January 1, 2002, and before October 1, 2002, we determined the final prospective payment amounts using the transition methodology prescribed in section 1886(j)(1) of the Act. Under this provision, IRFs transitioning into the PPS were paid a blend of the Federal IRF PPS rate and the payment that the IRFs would have received had the IRF PPS not been implemented. This provision also allowed IRFs to elect to bypass this blended payment and immediately be paid 100 percent of the Federal IRF PPS rate. The transition methodology expired as of cost reporting periods beginning on or after October 1, 2002 (FY 2003), and payments for all IRFs now consist of 100 percent of the Federal IRF PPS rate.

Section 1886(j) of the Act confers broad statutory authority upon the Secretary to propose refinements to the IRF PPS. In the FY 2006 IRF PPS final rule (70 FR 47880) and in correcting amendments to the FY 2006 IRF PPS final rule (70 FR 57166), we finalized a number of refinements to the IRF PPS case-mix classification system (the CMGs and the corresponding relative weights) and the case-level and facility-level adjustments. These refinements included the adoption of the Office of Management and Budget's (OMB's) Core-Based Statistical Area (CBSA) market definitions; modifications to the CMGs, tier comorbidities; and CMG relative weights, implementation of a new teaching status adjustment for IRFs; rebasing and revising the market basket index used to update IRF payments, and updates to the rural, low-income percentage (LIP), and high-cost outlier adjustments. Beginning with the FY 2006 IRF PPS final rule (70 FR 47908 through 47917), the market basket index used to update IRF payments was a market basket reflecting the operating and capital cost structures for freestanding IRFs, freestanding inpatient psychiatric facilities (IPFs), and long-term care hospitals (LTCHs) (hereinafter referred to as the rehabilitation, psychiatric, and long-term care (RPL) market basket). Any reference to the FY 2006 IRF PPS final rule in this final rule also includes the provisions effective in the correcting amendments. For a detailed discussion of the final key policy changes for FY 2006, please refer to the FY 2006 IRF PPS final rule.

The regulatory history previously included in each rule or notice issued under the IRF PPS, including a general description of the IRF PPS for FYs 2007 through 2020, is available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS.*

In late 2019,[1] the United States began responding to an outbreak of a virus named ''SARS–CoV–2'' and the disease it causes, which is named ''coronavirus disease 2019'' (abbreviated ''COVID–19''). Due to our prioritizing efforts in support of containing and combatting the PHE for COVID–19, and devoting significant resources to that end, we published two interim final rules with comment period affecting IRF payment and conditions for participation. The interim final rule with comment period (IFC) entitled, ''Medicare and Medicaid Programs; Policy and Regulatory Revisions in Response to the COVID–19 Public Health Emergency'', published on April 6, 2020 (85 FR 19230) (hereinafter referred to as the April 6, 2020 IFC), included certain changes to the IRF PPS medical supervision requirements at 42 CFR 412.622(a)(3)(iv) and 412.29(e) during the PHE for COVID–19. In addition, in the April 6, 2020 IFC, we removed the post-admission physician evaluation requirement at § 412.622(a)(4)(ii) for all IRFs during the PHE for COVID–19. In the FY 2021 IRF PPS final rule, to ease documentation and administrative burden, we also removed the post-admission physician evaluation documentation requirement at 42 CFR 412.622(a)(4)(ii) permanently beginning in FY 2021.

A second IFC entitled, ''Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID–19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program'' was published on May 8, 2020 (85 FR 27550) (hereinafter referred to as the May 8, 2020 IFC). Among other changes, the May 8, 2020 IFC included a waiver of the ''3-hour rule'' at § 412.622(a)(3)(ii) to reflect the waiver required by section 3711(a) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. 116–136, enacted on March 27, 2020). In the May 8, 2020 IFC, we also modified certain IRF coverage and classification requirements for freestanding IRF hospitals to relieve acute care hospital capacity concerns in States (or regions, as applicable) experiencing a surge during the PHE for COVID–19. In

[1] Patel A., Jernigan D.B. Initial Public Health Response and Interim Clinical Guidance for the 2019 Novel Coronavirus Outbreak—United States, December 31, 2019–February 4, 2020. MMWR Morb Mortal Wkly Rep 2020;69:140–146. DOI *http://dx.doi.org/10.15585/mmwr.mm6905e1.*

addition to the policies adopted in our IFCs, we responded to the PHE with numerous blanket waivers [2] and other flexibilities,[3] some of which are applicable to the IRF PPS.

B. Provisions of the PPACA and the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) Affecting the IRF PPS in FY 2012 and Beyond

The Patient Protection and Affordable Care Act (PPACA) (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the PPACA, was enacted on March 30, 2010. In this final rule, we refer to the two statutes collectively as the ''Patient Protection and Affordable Care Act'' or ''PPACA''.

The PPACA included several provisions that affect the IRF PPS in FYs 2012 and beyond. In addition to what was previously discussed, section 3401(d) of the PPACA also added section 1886(j)(3)(C)(ii)(I) of the Act (providing for a ''productivity adjustment'' for FY 2012 and each subsequent FY). The productivity adjustment for FY 2023 is discussed in section VI.B. of this final rule. Section 1886(j)(3)(C)(ii)(II) of the Act provides that the application of the productivity adjustment to the market basket update may result in an update that is less than 0.0 for a FY and in payment rates for a FY being less than such payment rates for the preceding FY.

Sections 3004(b) of the PPACA and section 411(b) of the MACRA (Pub. L. 114–10, enacted on April 16, 2015) also addressed the IRF PPS. Section 3004(b) of PPACA reassigned the previously designated section 1886(j)(7) of the Act to section 1886(j)(8) of the Act and inserted a new section 1886(j)(7) of the Act, which contains requirements for the Secretary to establish a QRP for IRFs. Under that program, data must be submitted in a form and manner and at a time specified by the Secretary. Beginning in FY 2014, section 1886(j)(7)(A)(i) of the Act requires the application of a 2-percentage point reduction to the market basket increase factor otherwise applicable to an IRF (after application of paragraphs (C)(iii) and (D) of section 1886(j)(3) of the Act) for a FY if the IRF does not comply with the requirements of the IRF QRP for that FY. Application of the 2-percentage point reduction may result in an update that is less than 0.0 for a FY and in payment rates for a FY being less than such payment rates for the preceding FY. Reporting-based reductions to the market basket increase factor are not cumulative; they only apply for the FY involved. Section 411(b) of the MACRA amended section 1886(j)(3)(C) of the Act by adding paragraph (iii), which required us to apply for FY 2018, after the application of section 1886(j)(3)(C)(ii) of the Act, an increase factor of 1.0 percent to update the IRF prospective payment rates.

C. Operational Overview of the Current IRF PPS

As described in the FY 2002 IRF PPS final rule (66 FR 41316), upon the admission and discharge of a Medicare Part A fee-for-service (FFS) patient, the IRF is required to complete the appropriate sections of a Patient Assessment Instrument (PAI), designated as the IRF–PAI. In addition, beginning with IRF discharges occurring on or after October 1, 2009, the IRF is also required to complete the appropriate sections of the IRF–PAI upon the admission and discharge of each Medicare Advantage (MA) patient, as described in the FY 2010 IRF PPS final rule (74 FR 39762 and 74 FR 50712). All required data must be electronically encoded into the IRF–PAI software product. Generally, the software product includes patient classification programming called the Grouper software. The Grouper software uses specific IRF–PAI data elements to classify (or group) patients into distinct CMGs and account for the existence of any relevant comorbidities.

The Grouper software produces a five-character CMG number. The first character is an alphabetic character that indicates the comorbidity tier. The last four characters are numeric characters that represent the distinct CMG number. A free download of the Grouper software is available on the CMS website at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Software.html.* The Grouper software is also embedded in the internet Quality Improvement and Evaluation System (iQIES) User tool available in iQIES at *https://www.cms.gov/medicare/quality-safety-oversight-general-information/iqies.*

Once a Medicare Part A FFS patient is discharged, the IRF submits a Medicare claim as a Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104–191, enacted on August 21, 1996)-compliant electronic claim or, if the Administrative Simplification Compliance Act of 2002 (ASCA) (Pub. L. 107–105, enacted on December 27, 2002) permits, a paper claim (a UB–04 or a CMS–1450 as appropriate) using the five-character CMG number and sends it to the appropriate Medicare Administrative Contractor (MAC). In addition, once a MA patient is discharged, in accordance with the Medicare Claims Processing Manual, chapter 3, section 20.3 (Pub. 100–04), hospitals (including IRFs) must submit an informational-only bill (type of bill (TOB) 111), which includes Condition Code 04 to their MAC. This will ensure that the MA days are included in the hospital's Supplemental Security Income (SSI) ratio (used in calculating the IRF LIP adjustment) for FY 2007 and beyond. Claims submitted to Medicare must comply with both ASCA and HIPAA.

Section 3 of the ASCA amended section 1862(a) of the Act by adding paragraph (22), which requires the Medicare program, subject to section 1862(h) of the Act, to deny payment under Part A or Part B for any expenses for items or services for which a claim is submitted other than in an electronic form specified by the Secretary. Section 1862(h) of the Act, in turn, provides that the Secretary shall waive such denial in situations in which there is no method available for the submission of claims in an electronic form or the entity submitting the claim is a small provider. In addition, the Secretary also has the authority to waive such denial in such unusual cases as the Secretary finds appropriate. For more information, see the ''Medicare Program; Electronic Submission of Medicare Claims'' final rule (70 FR 71008). Our instructions for the limited number of Medicare claims submitted on paper are available at *http://www.cms.gov/manuals/downloads/clm104c25.pdf.*

Section 3 of the ASCA operates in the context of the administrative simplification provisions of HIPAA, which include, among others, the requirements for transaction standards and code sets codified in 45 CFR part 160 and part 162, subparts A and I through R (generally known as the Transactions Rule). The Transactions Rule requires covered entities, including covered healthcare providers, to conduct covered electronic transactions according to the applicable transaction standards. (See the CMS program claim memoranda at *http://www.cms.gov/ElectronicBillingEDITrans/* and listed in the addenda to the Medicare

[2] CMS, ''COVID–19 Emergency Declaration Blanket Waivers for Health Care Providers,'' (updated Feb. 19 2021) (available at *https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf*).

[3] CMS, ''COVID–19 Frequently Asked Questions (FAQs) on Medicare Fee-for-Service (FFS) Billing,'' (updated March 5, 2021) (available at *https://www.cms.gov/files/document/03092020-covid-19-faqs-508.pdf*).

Intermediary Manual, Part 3, section 3600).

The MAC processes the claim through its software system. This software system includes pricing programming called the ''Pricer'' software. The Pricer software uses the CMG number, along with other specific claim data elements and provider-specific data, to adjust the IRF's prospective payment for interrupted stays, transfers, short stays, and deaths, and then applies the applicable adjustments to account for the IRF's wage index, percentage of low-income patients, rural location, and outlier payments. For discharges occurring on or after October 1, 2005, the IRF PPS payment also reflects the teaching status adjustment that became effective as of FY 2006, as discussed in the FY 2006 IRF PPS final rule (70 FR 47880).

D. Advancing Health Information Exchange

The Department of Health and Human Services (HHS) has a number of initiatives designed to encourage and support the adoption of interoperable health information technology and to promote nationwide health information exchange to improve health care and patient access to their electronic health information.

To further interoperability in post-acute care settings, CMS and the Office of the National Coordinator for Health Information Technology (ONC) participate in the Post-Acute Care Interoperability Workgroup (PACIO) to facilitate collaboration with interested parties from the industry to develop Fast Healthcare Interoperability Resources® (FHIR) standards. These standards could support the exchange and reuse of patient assessment data derived from the post-acute care (PAC) setting assessment tools, such as the Minimum Data Set (MDS), Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF–PAI), Long Term Care Hospital (LTCH) Continuity Assessment Record and Evaluation (CARE) Data Set (LCDS), Outcome and Assessment Information Set (OASIS), and other sources.[4] [5] The PACIO Project has focused on HL7 FHIR implementation guides for functional status, cognitive status and new use cases on advance directives, re-assessment timepoints, and Speech, Language, Swallowing, Cognitive communication and Hearing (SPLASCH) pathology.[6] We encourage PAC provider and health information technology (IT) vendor participation as the efforts advance.

The CMS Data Element Library (DEL) continues to be updated and serves as a resource for PAC assessment data elements and their associated mappings to health IT standards, such as Logical Observation Identifiers Names and Codes (LOINC) and Systematized Nomenclature of Medicine Clinical Terms (SNOMED).[7] The DEL furthers CMS' goal of data standardization and interoperability. These interoperable data elements can reduce provider burden by allowing the use and exchange of healthcare data; supporting provider exchange of electronic health information for care coordination, person-centered care; and supporting real-time, data driven, clinical decision-making.[8] [9] Standards in the DEL can be referenced on the CMS website (*https://del.cms.gov/DELWeb/pubHome*) and in the ONC Interoperability Standards Advisory (ISA). The 2022 ISA is available at *https://www.healthit.gov/isa/sites/isa/files/inline-files/2022-ISA-Reference-Edition.pdf.*

The 21st Century Cures Act (Cures Act), (Pub L. 114–255, enacted December 13, 2016) requires HHS to take new steps to enable the electronic sharing of health information and to further interoperability for providers and settings across the care continuum. Section 4003 of the Cures Act required HHS to take steps to advance interoperability through the development of a trusted exchange framework and common agreement aimed at establishing full network-to-network exchange of health information nationally. On January 18, 2022, ONC announced a significant milestone by releasing the Trusted Exchange Framework and Common Agreement Version 1. The Trusted Exchange Framework is a set of non-binding principles for health information exchange, and the Common Agreement is a contract that advances those principles. The Common Agreement and the incorporated by reference Qualified Health Information Network Technical Framework Version 1 establish the technical infrastructure model and governing approach for different health information networks and their users to securely share clinical information with each other, all under commonly agreed to terms. The Common Agreement follows a network-of-networks structure, which allows for connection at different levels and is inclusive of many different types of entities, such as health information networks, healthcare practices, hospitals, public health agencies, and Individual Access Services (IAS) Providers.[10] For more information, we refer readers to *https://www.healthit.gov/topic/interoperability/trusted-exchange-framework-and-common-agreement.*

We invited providers to learn more about these important developments and how they are likely to affect IRFs.

Comment: We received one comment on the information provided in this section. The commenter expressed support for efforts across HHS to advance health information technology exchange and encouraged use of a standard set of data by providers and health IT vendors, including efforts through the PACIO project. The commenter also noted a recent National Academies report [11] describing

[4] HL7 FHIR Release 4. Available at *https://www.hl7.org/fhir/.*

[5] HL7 FHIR. PACIO Functional Status Implementation Guide. Available at *https://paciowg.github.io/functional-status-ig/.*

[6] The IMPACT Act (Pub. L. 113–185) requires the reporting of standardized patient assessment data with regard to quality measures and standardized patient assessment data elements. The Act also requires the submission of data pertaining to measure domains of resource use, and other domains. In addition, the IMPACT Act requires assessment data to be standardized and interoperable to allow for exchange of the data among post-acute providers and other providers. The Act intends for standardized post-acute care data to improve Medicare beneficiary outcomes through shared-decision making, care coordination, and enhanced discharge planning.

[7] Centers for Medicare & Medicaid Services. Newsroom. Fact sheet: CMS Data Element Library Fact Sheet. June 21, 2018. Available at *https://www.cms.gov/newsroom/fact-sheets/cms-data-element-library-fact-sheet.*

[8] Centers for Medicare & Medicaid Services. Health Informatics and Interoperability Group. Policies and Technology for Interoperability and Burden Reduction. Available at *https://www.cms.gov/Regulations-and-Guidance/Guidance/Interoperability/index.*

[9] Bates, David W, and Lipika Samal. ''Interoperability: What Is It, How Can We Make It Work for Clinicians, and How Should We Measure It in the Future?.'' Health services research vol. 53,5 (2018): 3270–3277. doi:10.1111/1475–6773.12852.

[10] The Common Agreement defines Individual Access Services (IAS) as ''with respect to the Exchange Purposes definition, the services provided utilizing the Connectivity Services, to the extent consistent with Applicable Law, to an Individual with whom the QHIN, Participant, or Subparticipant has a Direct Relationship to satisfy that Individual's ability to access, inspect, or obtain a copy of that Individual's Required Information that is then maintained by or for any QHIN, Participant, or Subparticipant.'' The Common Agreement defines ''IAS Provider'' as: ''Each QHIN, Participant, and Subparticipant that offers Individual Access Services.'' *See* Common Agreement for Nationwide Health Information Interoperability Version 1, at 7 (Jan. 2022), *https://www.healthit.gov/sites/default/files/page/2022-01/Common_Agreement_for_Nationwide_Health_Information_Interoperability_Version_1.pdf.*

[11] The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families & Staff, *see https://nap.nationalacademies.org/catalog/26526/the-national-imperative-to-improve-nursing-home-quality-honoring-our.*

technology barriers for post-acute care settings due to not being eligible for previous incentives to purchase technology certified under the ONC Health IT Certification Program. The commenter supported recommendations in the report for HHS to pursue financial incentives for post-acute care settings to adopt certified health IT in order to enable health information exchange.

Response: We will take this comment into consideration as we coordinate with Federal partners, including ONC, on interoperability initiatives, and to inform future rulemaking.

III. Summary of Provisions of the Proposed Rule

In the FY 2023 IRF PPS proposed rule (the proposed rule), we proposed to update the IRF PPS for FY 2023 and the IRF QRP for FY 2025.

The proposed policy changes and updates to the IRF prospective payment rates for FY 2023 are as follows:

- Update the CMG relative weights and average length of stay values for FY 2023, in a budget neutral manner, as discussed in section IV. of the FY 2023 IRF PPS proposed rule (87 FR 20222 through 20227).
- Update the IRF PPS payment rates for FY 2023 by the market basket increase factor, based upon the most current data available, with a productivity adjustment required by section 1886(j)(3)(C)(ii)(I) of the Act, as described in section V. of the FY 2023 IRF PPS proposed rule (87 FR 20227 through 20228).
- Describe the establishment of a permanent cap policy in order to smooth the impact of year-to-year changes in IRF payments related to certain changes to the IRF wage index, as discussed in section V. of the FY 2023 IRF PPS proposed rule (87 FR 20230 through 20231).
- Update the FY 2023 IRF PPS payment rates by the FY 2023 wage index and the labor-related share in a budget-neutral manner, as discussed in section V. of the FY 2023 IRF PPS proposed rule (87 FR 20228 through 20229).
- Describe the calculation of the IRF standard payment conversion factor for FY 2023, as discussed in section V. of the FY 2023 IRF PPS proposed rule (87 FR 20232).
- Update the outlier threshold amount for FY 2023, as discussed in section VI. of the FY 2023 IRF PPS proposed rule (87 FR 20235 through 20236).
- Update the cost-to-charge ratio (CCR) ceiling and urban/rural average CCRs for FY 2023, as discussed in section VI. of the FY 2023 IRF PPS proposed rule (87 FR 20236).
- Describe the proposed codification of CMS' existing teaching status adjustment policy and proposed clarifications and updates of the IRF teaching status adjustment policy with respect to IRF hospital closures and displaced residents, as discussed in section VII. of the FY 2023 IRF PPS proposed rule (87 FR 20236 through 20239).
- Solicit comments on the methodology used to update the facility-level adjustment factors, as discussed in section VIII. of the FY 2023 IRF PPS proposed rule.
- Solicit comments on the IRF transfer payment policy, as discussed in section IX. of the FY 2023 IRF PPS proposed rule.

We also proposed updates to the IRF QRP and requested information in section VII. of the proposed rule as follows:

- Update data reporting requirements under the IRF QRP beginning with FY 2025.
- Request information on (1) future measure concepts under consideration for the IRF QRP; (2) inclusion of a future dQM for the IRF QRP; and (3) CMS' overarching principles for measuring healthcare disparities across CMS Quality Programs, including the IRF QRP.

IV. Analysis of and Responses to Public Comments

We received 61 timely responses from the public, many of which contained multiple comments on the FY 2023 IRF PPS proposed rule (87 FR 20218). We received comments from various trade associations, inpatient rehabilitation facilities, individual physicians, therapists, clinicians, health care industry organizations, and health care consulting firms. The following sections, arranged by subject area, include a summary of the public comments that we received, and our responses.

A. Miscellaneous Comments

Comment: We received several additional comments that were outside the scope of the FY 2023 IRF PPS proposed rule. Specifically, we received comments regarding Medicare beneficiaries and vaccine status, the inclusion of recreational therapy, and general patient access issues in post-acute care settings.

Response: We thank the commenters for bringing these issues to our attention, and will take these comments into consideration for potential policy refinements.

V. Update to the Case-Mix Group (CMG) Relative Weights and Average Length of Stay (ALOS) Values for FY 2023

As specified in § 412.620(b)(1), we calculate a relative weight for each CMG that is proportional to the resources needed by an average inpatient rehabilitation case in that CMG. For example, cases in a CMG with a relative weight of 2, on average, will cost twice as much as cases in a CMG with a relative weight of 1. Relative weights account for the variance in cost per discharge due to the variance in resource utilization among the payment groups, and their use helps to ensure that IRF PPS payments support beneficiary access to care, as well as provider efficiency.

We proposed to update the CMG relative weights and ALOS values for FY 2023. Typically, we use the most recent available data to update the CMG relative weights and average lengths of stay. For FY 2023, we proposed to use the FY 2021 IRF claims and FY 2020 IRF cost report data. These data are the most current and complete data available at this time. Currently, only a small portion of the FY 2021 IRF cost report data are available for analysis, but the majority of the FY 2021 IRF claims data are available for analysis. We also proposed that if more recent data became available after the publication of the proposed rule and before the publication of the final rule, we would use such data to determine the FY 2023 CMG relative weights and ALOS values in the final rule.

We proposed to apply these data using the same methodologies that we have used to update the CMG relative weights and ALOS values each FY since we implemented an update to the methodology. The detailed CCR data from the cost reports of IRF provider units of primary acute care hospitals is used for this methodology, instead of CCR data from the associated primary care hospitals, to calculate IRFs' average costs per case, as discussed in the FY 2009 IRF PPS final rule (73 FR 46372). In calculating the CMG relative weights, we use a hospital-specific relative value method to estimate operating (routine and ancillary services) and capital costs of IRFs. The process to calculate the CMG relative weights for this final rule is as follows:

Step 1. We estimate the effects that comorbidities have on costs.

Step 2. We adjust the cost of each Medicare discharge (case) to reflect the effects found in the first step.

Step 3. We use the adjusted costs from the second step to calculate CMG

relative weights, using the hospital-specific relative value method.

Step 4. We normalize the FY 2023 CMG relative weights to the same average CMG relative weight from the CMG relative weights implemented in the FY 2022 IRF PPS final rule (86 FR 42362).

Consistent with the methodology that we have used to update the IRF classification system in each instance in the past, we proposed to update the CMG relative weights for FY 2023 in such a way that total estimated aggregate payments to IRFs for FY 2023 are the same with or without the changes (that is, in a budget-neutral manner) by applying a budget neutrality factor to the standard payment amount. We note that, as we typically do, we updated our data between the FY 2023 IRF PPS proposed and final rules to ensure that we use the most recent available data in calculating IRF PPS payments. This updated data reflects a more complete set of claims for FY 2021 and additional cost report data for FY 2020. To calculate the appropriate budget neutrality factor for use in updating the FY 2023 CMG relative weights, we use the following steps:

Step 1. Calculate the estimated total amount of IRF PPS payments for FY 2023 (with no changes to the CMG relative weights).

Step 2. Calculate the estimated total amount of IRF PPS payments for FY 2023 by applying the changes to the CMG relative weights (as discussed in this final rule).

Step 3. Divide the amount calculated in step 1 by the amount calculated in step 2 to determine the budget neutrality factor of 0.9979 that would maintain the same total estimated aggregate payments in FY 2023 with and without the changes to the CMG relative weights.

Step 4. Apply the budget neutrality factor from step 3 to the FY 2023 IRF PPS standard payment amount after the application of the budget-neutral wage adjustment factor.

In section VI.E. of this final rule, we discuss the use of the existing methodology to calculate the standard payment conversion factor for FY 2023.

In Table 2, ''Relative Weights and Average Length of Stay Values for Case-Mix Groups,'' we present the CMGs, the comorbidity tiers, the corresponding relative weights, and the ALOS values for each CMG and tier for FY 2023. The ALOS for each CMG is used to determine when an IRF discharge meets the definition of a short-stay transfer, which results in a per diem case level adjustment.

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TABLE 2: Relative Weights and Average Length of Stay Values for the Case-Mix Groups

CMG	CMG Description (M=motor, A=age)	Relative Weight				Average Length of Stay			
		Tier 1	Tier 2	Tier 3	No Comorbidity Tier	Tier 1	Tier 2	Tier 3	No Comorbidity Tier
0101	Stroke M >=72.50	0.9925	0.8649	0.7853	0.7448	10	10	9	9
0102	Stroke M >=63.50 and M <72.50	1.2559	1.0944	0.9937	0.9425	12	13	11	11
0103	Stroke M >=50.50 and M <63.50	1.6323	1.4224	1.2915	1.2250	14	14	14	13
0104	Stroke M >=41.50 and M <50.50	2.0872	1.8188	1.6514	1.5663	18	18	17	17
0105	Stroke M <41.50 and A >=84.50	2.5142	2.1909	1.9892	1.8868	22	22	21	20
0106	Stroke M <41.50 and A <84.50	2.8718	2.5025	2.2721	2.1551	25	26	23	23
0201	Traumatic brain injury M >=73.50	1.1217	0.9035	0.8176	0.7686	11	10	9	9
0202	Traumatic brain injury M >=61.50 and M <73.50	1.4057	1.1322	1.0246	0.9632	12	13	11	11
0203	Traumatic brain injury M >=49.50 and M <61.50	1.7253	1.3896	1.2576	1.1822	14	15	13	13
0204	Traumatic brain injury M >=35.50 and M <49.50	2.1294	1.7152	1.5521	1.4591	19	18	16	16
0205	Traumatic brain injury M <35.50	2.7026	2.1769	1.9700	1.8519	28	23	20	18
0301	Non-traumatic brain injury M >=65.50	1.1955	0.9637	0.8933	0.8318	11	10	10	9
0302	Non-traumatic brain injury M >=52.50 and M <65.50	1.5388	1.2405	1.1498	1.0706	13	13	12	12
0303	Non-traumatic brain injury M >=42.50 and M <52.50	1.8519	1.4929	1.3838	1.2885	15	15	14	14
0304	Non-traumatic brain injury M <42.50 and A >=78.50	2.1553	1.7374	1.6105	1.4996	19	18	16	15
0305	Non-traumatic brain injury M <42.50 and A <78.50	2.3509	1.8951	1.7566	1.6356	20	19	17	17
0401	Traumatic spinal cord injury M >=56.50	1.3242	1.1007	1.0447	0.9608	12	11	12	11
0402	Traumatic spinal cord injury M >=47.50 and M <56.50	1.6965	1.4102	1.3384	1.2310	17	15	15	14
0403	Traumatic spinal cord injury M >=41.50 and M <47.50	2.0935	1.7402	1.6516	1.5190	17	19	17	17
0404	Traumatic spinal cord injury M <31.50 and A <61.50	3.1513	2.6195	2.4861	2.2865	22	27	26	23
0405	Traumatic spinal cord injury M >=31.50 and M <41.50	2.6020	2.1629	2.0527	1.8879	23	23	22	20
0406	Traumatic spinal cord injury M >=24.50 and M <31.50 and A >=61.50	3.3965	2.8233	2.6796	2.4644	24	29	25	27
0407	Traumatic spinal cord injury M <24.50 and A >=61.50	4.2745	3.5532	3.3722	3.1015	47	36	33	32
0501	Non-traumatic spinal cord injury M >=60.50	1.2461	0.9814	0.9275	0.8607	11	11	10	10
0502	Non-traumatic spinal cord injury M >=53.50 and M <60.50	1.5477	1.2189	1.1519	1.0690	16	13	12	12
0503	Non-traumatic spinal cord injury M >=48.50 and M <53.50	1.7797	1.4016	1.3246	1.2293	15	14	14	14
0504	Non-traumatic spinal cord injury M >=39.50 and M <48.50	2.1604	1.7014	1.6080	1.4922	19	18	17	16
0505	Non-traumatic spinal cord injury M <39.50	2.9682	2.3376	2.2093	2.0502	26	24	22	21
0601	Neurological M >=64.50	1.3436	1.0050	0.9520	0.8493	11	10	10	9
0602	Neurological M >=52.50 and M <64.50	1.6782	1.2553	1.1891	1.0608	13	13	12	12
0603	Neurological M >=43.50 and M <52.50	2.0025	1.4979	1.4189	1.2658	16	15	14	13
0604	Neurological M <43.50	2.4840	1.8580	1.7601	1.5701	20	18	17	16
0701	Fracture of lower extremity M >=61.50	1.2419	0.9629	0.9196	0.8518	11	11	10	10

CMG	CMG Description (M=motor, A=age)	Relative Weight				Average Length of Stay			
		Tier 1	Tier 2	Tier 3	No Comorbidity Tier	Tier 1	Tier 2	Tier 3	No Comorbidity Tier
0702	Fracture of lower extremity M >=52.50 and M <61.50	1.5281	1.1848	1.1316	1.0482	13	13	12	12
0703	Fracture of lower extremity M >=41.50 and M <52.50	1.9017	1.4745	1.4083	1.3044	16	15	15	14
0704	Fracture of lower extremity M <41.50	2.2895	1.7752	1.6954	1.5705	19	18	17	16
0801	Replacement of lower-extremity joint M >=63.50	1.1274	0.9637	0.8723	0.7995	10	10	9	9
0802	Replacement of lower-extremity joint M >=57.50 and M <63.50	1.2971	1.1089	1.0036	0.9199	11	11	10	10
0803	Replacement of lower-extremity joint M >=51.50 and M <57.50	1.4301	1.2225	1.1065	1.0142	12	13	12	11
0804	Replacement of lower-extremity joint M >=42.50 and M <51.50	1.6393	1.4014	1.2684	1.1626	14	14	13	12
0805	Replacement of lower-extremity joint M <42.50	1.9629	1.6780	1.5188	1.3921	16	16	15	14
0901	Other orthopedic M >=63.50	1.2029	0.9634	0.8941	0.8244	11	11	10	9
0902	Other orthopedic M >=51.50 and M <63.50	1.5195	1.2170	1.1294	1.0414	13	13	12	11
0903	Other orthopedic M >=44.50 and M <51.50	1.8043	1.4451	1.3410	1.2366	15	15	14	13
0904	Other orthopedic M <44.5	2.1091	1.6892	1.5676	1.4455	17	17	16	15
1001	Amputation lower extremity M >=64.50	1.2252	1.0648	0.9244	0.8491	11	12	10	10
1002	Amputation lower extremity M >=55.50 and M <64.50	1.5216	1.3224	1.1480	1.0545	14	13	12	12
1003	Amputation lower extremity M >=47.50 and M <55.50	1.7963	1.5612	1.3553	1.2449	15	16	14	14
1004	Amputation lower extremity M <47.50	2.2536	1.9586	1.7004	1.5619	18	20	17	16
1101	Amputation non-lower extremity M >=58.50	1.3533	1.3533	1.0009	0.8003	13	13	11	11
1102	Amputation non-lower extremity M >=52.50 and M <58.50	1.6448	1.6448	1.2166	0.9727	13	15	13	12
1103	Amputation non-lower extremity M <52.50	2.1759	2.1759	1.6094	1.2867	19	17	16	14
1201	Osteoarthritis M >=61.50	1.3114	1.0425	0.9332	0.8328	10	10	11	9
1202	Osteoarthritis M >=49.50 and M <61.50	1.7077	1.3576	1.2152	1.0845	14	13	12	12
1203	Osteoarthritis M <49.50 and A >=74.50	2.1007	1.6700	1.4949	1.3341	16	15	15	14
1204	Osteoarthritis M <49.50 and A <74.50	2.1645	1.7207	1.5403	1.3746	16	15	16	16
1301	Rheumatoid other arthritis M >=62.50	1.2007	0.9365	0.8637	0.8566	9	9	9	9
1302	Rheumatoid other arthritis M >=51.50 and M <62.50	1.6006	1.2485	1.1514	1.1420	12	12	12	12
1303	Rheumatoid other arthritis M >=44.50 and M <51.50 and A >=64.50	1.8725	1.4605	1.3469	1.3359	14	14	14	14
1304	Rheumatoid other arthritis M <44.50 and A >=64.50	2.2966	1.7913	1.6520	1.6385	15	17	17	16
1305	Rheumatoid other arthritis M <51.50 and A <64.50	2.1197	1.6533	1.5248	1.5123	16	15	15	16
1401	Cardiac M >=68.50	1.1393	0.8998	0.8290	0.7582	10	10	9	9
1402	Cardiac M >=55.50 and M <68.50	1.4523	1.1470	1.0567	0.9665	13	12	11	11
1403	Cardiac M >=45.50 and M <55.50	1.7605	1.3904	1.2810	1.1716	15	14	13	13
1404	Cardiac M <45.50	2.1566	1.7033	1.5692	1.4352	18	17	16	14
1501	Pulmonary M >=68.50	1.3155	1.0243	0.9755	0.9466	11	10	10	10
1502	Pulmonary M >=56.50 and M <68.50	1.6084	1.2523	1.1927	1.1573	13	12	12	12

CMG	CMG Description (M=motor, A=age)	Relative Weight				Average Length of Stay			
		Tier 1	Tier 2	Tier 3	No Comorbidity Tier	Tier 1	Tier 2	Tier 3	No Comorbidity Tier
1503	Pulmonary M >=45.50 and M <56.50	1.8745	1.4595	1.3901	1.3488	16	14	13	13
1504	Pulmonary M <45.50	2.2355	1.7406	1.6577	1.6086	21	17	16	15
1601	Pain syndrome M >=65.50	1.1407	0.8832	0.8583	0.7881	9	10	10	9
1602	Pain syndrome M >=58.50 and M <65.50	1.3373	1.0355	1.0063	0.9240	10	11	11	10
1603	Pain syndrome M >=43.50 and M <58.50	1.6174	1.2524	1.2171	1.1176	14	13	13	13
1604	Pain syndrome M <43.50	2.0019	1.5501	1.5064	1.3832	12	14	16	14
1701	Major multiple trauma without brain or spinal cord injury M >=57.50	1.3034	1.0269	0.9630	0.8772	11	10	11	10
1702	Major multiple trauma without brain or spinal cord injury M >=50.50 and M <57.50	1.6229	1.2787	1.1991	1.0922	13	14	12	12
1703	Major multiple trauma without brain or spinal cord injury M >=41.50 and M <50.50	1.9150	1.5088	1.4149	1.2888	16	15	15	14
1704	Major multiple trauma without brain or spinal cord injury M >=36.50 and M <41.50	2.1702	1.7098	1.6034	1.4605	17	18	17	15
1705	Major multiple trauma without brain or spinal cord injury M <36.50	2.4824	1.9558	1.8340	1.6706	23	20	19	17
1801	Major multiple trauma with brain or spinal cord injury M >=67.50	1.2241	0.9642	0.9021	0.8340	13	11	10	10
1802	Major multiple trauma with brain or spinal cord injury M >=55.50 and M <67.50	1.4660	1.1547	1.0803	0.9988	15	13	12	12
1803	Major multiple trauma with brain or spinal cord injury M >=45.50 and M <55.50	1.8362	1.4463	1.3531	1.2510	17	16	15	14
1804	Major multiple trauma with brain or spinal cord injury M >=40.50 and M <45.50	2.1281	1.6762	1.5683	1.4499	18	17	16	15
1805	Major multiple trauma with brain or spinal cord injury M >=30.50 and M <40.50	2.5312	1.9937	1.8653	1.7246	22	22	19	18
1806	Major multiple trauma with brain or spinal cord injury M <30.50	3.4695	2.7327	2.5567	2.3638	38	27	24	24
1901	Guillain-Barré M >=66.50	1.1282	1.0290	0.9875	0.9349	11	13	12	10
1902	Guillain-Barré M >=51.50 and M <66.50	1.4132	1.2890	1.2370	1.1711	14	13	14	13
1903	Guillain-Barré M >=38.50 and M <51.50	2.0853	1.9021	1.8253	1.7280	19	20	18	19
1904	Guillain-Barré M <38.50	3.2177	2.9350	2.8165	2.6664	32	31	28	26
2001	Miscellaneous M >=66.50	1.2001	0.9695	0.8919	0.8116	10	10	10	9
2002	Miscellaneous M >=55.50 and M <66.50	1.4871	1.2014	1.1052	1.0057	13	12	12	11
2003	Miscellaneous M >=46.50 and M <55.50	1.7674	1.4278	1.3135	1.1952	15	14	14	13
2004	Miscellaneous M <46.50 and A >=77.50	2.0792	1.6797	1.5452	1.4061	18	17	16	15
2005	Miscellaneous M <46.50 and A <77.50	2.2277	1.7996	1.6555	1.5065	19	18	16	15
2101	Burns M >=52.50	1.5468	1.1616	1.1017	1.0436	14	13	12	11
2102	Burns M <52.50	2.3998	1.8022	1.7092	1.6191	27	18	16	16
5001	Short-stay cases, length of stay is 3 days or fewer				0.1703				3

CMG	CMG Description (M=motor, A=age)	Relative Weight				Average Length of Stay			
		Tier 1	Tier 2	Tier 3	No Comorbidity Tier	Tier 1	Tier 2	Tier 3	No Comorbidity Tier
5101	Expired, orthopedic, length of stay is 13 days or fewer				0.7376				8
5102	Expired, orthopedic, length of stay is 14 days or more				1.8932				17
5103	Expired, not orthopedic, length of stay is 15 days or fewer				0.8919				9
5104	Expired, not orthopedic, length of stay is 16 days or more				2.2656				21

Generally, updates to the CMG relative weights result in some increases and some decreases to the CMG relative weight values. Table 2 shows how we estimate that the application of the revisions for FY 2023 would affect particular CMG relative weight values, which would affect the overall distribution of payments within CMGs and tiers. We note that, because we implement the CMG relative weight revisions in a budget-neutral manner (as previously described), total estimated aggregate payments to IRFs for FY 2023 are not affected as a result of the CMG relative weight revisions. However, the revisions affect the distribution of payments within CMGs and tiers.

TABLE 3: Distributional Effects of the Changes to the CMG Relative Weights

Percentage Change in CMG Relative Weights	Number of Cases Affected	Percentage of Cases Affected
Increased by 15% or more	57	0.0%
Increased by between 5% and 15%	2,791	0.7%
Changed by less than 5%	373,157	98.9%
Decreased by between 5% and 15%	1,281	0.3%
Decreased by 15% or more	8	0.0%

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As shown in Table 3, 98.9 percent of all IRF cases are in CMGs and tiers that would experience less than a 5 percent change (either increase or decrease) in the CMG relative weight value as a result of the revisions for FY 2023. The changes in the ALOS values for FY 2023, compared with the FY 2022 ALOS values, are small and do not show any particular trends in IRF length of stay patterns.

The comments we received on our proposed updates to the CMG relative weights and ALOS values for FY 2023 and our responses are summarized below.

Comment: Some commenters were supportive of our proposed updates to the CMG relative weights and average length of stay values using the most recent data available. A few commenters expressed concern regarding reductions in the relative weight values associated with stroke and traumatic spinal cord injury and suggested that this would inappropriately reduce payments. One commenter requested that CMS not reduce any CMG relative weight values or LOS values until after the COVID–19 PHE has ended and urged CMS to ensure that adequate payment is provided for all cases.

Response: We appreciate these commenters' support for the proposed updates. The CMG relative weights are updated each year in a budget neutral manner, thus leading to increases in some CMG relative weights and corresponding decreases in other CMG relative weights. We note that, as we typically do, we have updated our data between the FY 2023 IRF PPS proposed and this final rule to ensure that we use the most recent available data in calculating IRF PPS payments. We have reviewed the increases and decreases in the CMG relative weights for this final rule and we believe that these changes accurately reflect our best estimates of the relative costs of caring for different types of patients in the IRF setting for FY 2023 and that it would not be appropriate to prevent decreases in these values until after the PHE has ended. The relative weights associated with these CMGs include both increases and decreases, and the variation for FY 2023 is similar to the typical year-to-year variation that we observe. The relative weight values are updated each year to ensure that the IRF case mix system is as reflective as possible of the current IRF population, thereby ensuring that IRF payments appropriately reflect the relative costs of caring for all types of IRF patients.

Comment: A commenter expressed concern that the CMG relative weights do not address patient severity and are not aligned with recent trends in coding practices. This commenter also recommended that CMS revise the CMGs and the underlying data collection to account for new populations of cases.

Response: We believe that these data accurately reflect the severity of the IRF patient population and the associated costs of caring for these patients in the IRF setting. The CMG relative weights are updated each year based on the most recent available data for the full population of IRF Medicare fee-for-service beneficiaries. This ensures that the IRF case mix system is as reflective as possible of changes in the IRF patient populations and the associated coding practices.

After consideration of the comments we received, we are finalizing our proposal to update the CMG relative weights and ALOS values for FY 2023, as shown in Table 2 of this final rule. These updates are effective for FY 2023,

that is, for discharges occurring on or after October 1, 2022 and on or before September 30, 2023.

VI. FY 2023 IRF PPS Payment Update

A. Background

Section 1886(j)(3)(C) of the Act requires the Secretary to establish an increase factor that reflects changes over time in the prices of an appropriate mix of goods and services for which payment is made under the IRF PPS. According to section 1886(j)(3)(A)(i) of the Act, the increase factor shall be used to update the IRF prospective payment rates for each FY. Section 1886(j)(3)(C)(ii)(I) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. Thus, in the proposed rule, we proposed to update the IRF PPS payments for FY 2023 by a market basket increase factor as required by section 1886(j)(3)(C) of the Act based upon the most current data available, with a productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act.

We have utilized various market baskets through the years in the IRF PPS. For a discussion of these market baskets, we refer readers to the FY 2016 IRF PPS final rule (80 FR 47046).

In FY 2016, we finalized the use of a 2012-based IRF market basket, using Medicare cost report data for both freestanding and hospital-based IRFs (80 FR 47049 through 47068). Beginning with FY 2020, we finalized a rebased and revised IRF market basket to reflect a 2016 base year. The FY 2020 IRF PPS final rule (84 FR 39071 through 39086) contains a complete discussion of the development of the 2016-based IRF market basket.

B. FY 2023 Market Basket Update and Productivity Adjustment

For FY 2023 (that is, beginning October 1, 2022 and ending September 30, 2023), we proposed to update the IRF PPS payments by a market basket increase factor as required by section 1886(j)(3)(C) of the Act, with a productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act. For FY 2023, we proposed to use the same methodology described in the FY 2022 IRF PPS final rule (86 FR 42373 through 42376).

Consistent with historical practice, we proposed to estimate the market basket update for the IRF PPS for FY 2023 based on IHS Global Inc.'s (IGI's) forecast using the most recent available data. Based on IGI's fourth quarter 2021 forecast with historical data through the third quarter of 2021, the proposed 2016-based IRF market basket increase factor for FY 2023 was projected to be 3.2 percent. We also proposed that if more recent data became available after the publication of the proposed rule and before the publication of the final rule (for example, a more recent estimate of the market basket update or productivity adjustment), we would use such data, if appropriate, to determine the FY 2023 market basket update in this final rule.

According to section 1886(j)(3)(C)(i) of the Act, the Secretary shall establish an increase factor based on an appropriate percentage increase in a market basket of goods and services. Section 1886(j)(3)(C)(ii) of the Act then requires that, after establishing the increase factor for a FY, the Secretary shall reduce such increase factor for FY 2012 and each subsequent FY, by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. Section 1886(b)(3)(B)(xi)(II) of the Act sets forth the definition of this productivity adjustment. The statute defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide, private nonfarm business multifactor productivity (as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period) (the ''productivity adjustment''). The U.S. Department of Labor's Bureau of Labor Statistics (BLS) publishes the official measures of productivity for the U.S. economy. We note that previously the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act, was published by BLS as private nonfarm business multifactor productivity. Beginning with the November 18, 2021 release of productivity data, BLS replaced the term multifactor productivity (MFP) with total factor productivity (TFP). BLS noted that this is a change in terminology only and will not affect the data or methodology. As a result of the BLS name change, the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) is now published by BLS as private nonfarm business total factor productivity. However, as mentioned above, the data and methods are unchanged. Please see *www.bls.gov* for the BLS historical published TFP data. A complete description of IGI's TFP projection methodology is available on the CMS website at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.* In addition, in the FY 2022 IRF final rule (86 FR 42374), we noted that effective with FY 2022 and forward, CMS changed the name of this adjustment to refer to it as the productivity adjustment rather than the MFP adjustment.

Using IGI's fourth quarter 2021 forecast, the 10-year moving average growth of TFP for FY 2023 was projected to be 0.4 percent. Thus, in accordance with section 1886(j)(3)(C) of the Act, we proposed to base the FY 2023 market basket update, which is used to determine the applicable percentage increase for the IRF payments, on IGI's fourth quarter 2021 forecast of the 2016-based IRF market basket. We proposed to then reduce this percentage increase by the estimated productivity adjustment for FY 2023 of 0.4 percentage point (the 10-year moving average growth of TFP for the period ending FY 2023 based on IGI's fourth quarter 2021 forecast). Therefore, the proposed FY 2023 IRF update was equal to 2.8 percent (3.2 percent market basket update reduced by the 0.4 percentage point productivity adjustment). Furthermore, we proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the market basket and/or productivity adjustment), we would use such data, if appropriate, to determine the FY 2023 market basket update and productivity adjustment in this final rule.

Based on the more recent data available for this FY 2023 IRF final rule (that is, IGI's second quarter 2022 forecast of the 2016-based IRF market basket with historical data through the first quarter of 2022), we estimate that the IRF FY 2023 market basket update is 4.2 percent. Based on the more recent data available from IGI's second quarter 2022 forecast, the current estimate of the productivity adjustment for FY 2023 is 0.3 percentage point. Therefore, the current estimate of the FY 2023 IRF productivity-adjusted market basket increase factor is equal to 3.9 percent (4.2 percent market basket update reduced by 0.3 percentage point productivity adjustment).

For FY 2023, the Medicare Payment Advisory Commission (MedPAC) recommends that we reduce IRF PPS payment rates by 5 percent.[12] As discussed, and in accordance with sections 1886(j)(3)(C) and 1886(j)(3)(D) of the Act, the Secretary proposed to update the IRF PPS payment rates for FY 2023 by a productivity-adjusted IRF

[12] *https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_SEC.pdf.*

market basket increase factor of 2.8 percent. Based on more recent data, the current estimate of the productivity-adjusted IRF market basket increase factor for FY 2023 is 3.9 percent. Section 1886(j)(3)(C) of the Act does not provide the Secretary with the authority to apply a different update factor to IRF PPS payment rates for FY 2023.

We invited public comment on our proposals for the FY 2023 market basket update and productivity adjustment. The following is a summary of the public comments received on the proposed FY 2023 market basket update and productivity adjustment and our responses:

Comment: Several commenters expressed concern that the proposed market basket update is inadequate relative to input price inflation experienced by IRFs, particularly as a result of COVID–19. These commenters stated the PHE, along with inflation, has significantly driven up operating costs. The commenters expressed concern that these increased costs are not reflected in the market basket update and requested that CMS discuss in the final rule how the agency will account for these increased costs. Specifically, some commenters noted changes to the labor market, such as increased reliance on contract nurses and staff due to shortages. Several commenters also mentioned a report by the American Hospital Association, which stated there has been significant growth in hospital expenses across labor, drugs, and supplies due to recent high inflation.

One commenter had concerns that the proposed market basket forecast is neither accurately nor adequately capturing the unique factors influencing the hospital and health care market today in general, and the market in which IRFs compete specifically. In particular, the commenter was concerned that the methods used to estimate inflation in IRF spending are not capturing the pandemic-initiated shocks to the health care market that are significantly driving up costs, especially labor, across the spectrum of hospital inputs. One commenter noted that other payment systems (such as for Medicare Advantage plans) have higher increases. Several commenters supported and appreciated that CMS would use a more recent projection of the market basket but remained concerned that the impacts of the PHE would not be adequately factored into the payment rate update.

Commenters had several different suggestions for addressing these concerns. One commenter requested that CMS consider an alternative approach that would better align market basket increases with increases in cost to treat patients. A few commenters requested that CMS consider other methods and data sources to calculate the final rule market basket update that would better reflect the rapidly increasing input prices facing IRFs. A few commenters requested that CMS deviate from its typical methodology to update payments in a manner that addresses rising costs and reductions in reimbursement to ensure there are not disruptions to IRF services for Medicare beneficiaries. One commenter urged CMS to consider the pandemic triggers that do not seem to be reflected in the market basket forecast and make a PHE-related exception to further increase IRF rates to better adjust FY 2023 payments to IRFs to account for inflation. Finally, another commenter requested that CMS provide a one-time payment adjustment to supplement the cost of care.

Response: We are required to update IRF PPS payments by the market basket update adjusted for productivity, as directed by section 1886(j)(3)(C) of the Act. Specifically, section 1886(j)(3)(C)(i) states that the increase factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising services for which payment is made. We believe the 2016-based IRF market basket increase adequately reflects the average change in the price of goods and services hospitals purchase in order to provide IRF medical services, and is technically appropriate to use as the IRF payment update factor. As described in the FY 2020 IRF final rule (84 FR 39072 through 39089), the IRF market basket is a fixed-weight, Laspeyres-type index that measures price changes over time and would not reflect increases in costs associated with changes in the volume or intensity of input goods and services. As such, the IRF market basket update would reflect the prospective price pressures described by the commenters as increasing during a high inflation period (such as faster wage growth or higher energy prices), but would inherently not reflect other factors that might increase the level of costs, such as the quantity of labor used or any shifts between contract and staff nurses. We note that cost changes (that is, the product of price and quantities) would only be reflected when a market basket is rebased and the base year weights are updated to a more recent time period.

We agree with the commenters that recent higher inflationary trends have impacted the outlook for price growth over the next several quarters. At the time of the FY 2023 IRF proposed rule, based on the IHS Global Inc. fourth quarter 2021 forecast with historical data through third quarter 2021, IHS Global Inc. forecasted the 2016-based IRF market basket update of 3.2 percent for FY 2023 reflecting forecasted compensation price growth of 3.8 percent (by comparison, compensation price growth in the IRF market basket averaged 2.1 percent from 2012–2021). In the FY 2023 IRF PPS proposed rule, we proposed that if more recent data became available, we would use such data, if appropriate, to derive the final FY 2023 IRF market basket update for the final rule. For this final rule, we now have an updated forecast of the price proxies underlying the market basket that incorporates more recent historical data and reflects a revised outlook regarding the U.S. economy and expected price inflation for FY 2023 for IRFs. Based on IHS Global Inc.'s second quarter 2022 forecast with historical data through the first quarter of 2022, we are projecting a FY 2023 IRF market basket update of 4.2 percent (reflecting forecasted compensation price growth of 4.8 percent) and a productivity adjustment of 0.3 percentage point. Therefore, for FY 2023 a final IRF productivity-adjusted market basket update of 3.9 percent (4.2 percent less 0.3 percentage point) will be applicable, compared to the 2.8 percent that was proposed. We note that the final FY 2023 IRF market basket growth rate of 4.2 percent would be the highest market basket update implemented in a final rule since the beginning of the IRF PPS.

Regarding commenters' request that CMS consider other methods and data sources to calculate the final rule market basket update, including the authority under section 1886(j) of the Act, while we generally agree that the Secretary has broad authority under the statute to establish the methodology for updating the IRF PPS payments, we note that our longstanding policy since the inception of the IRF PPS has been to update IRF PPS payments based on an appropriate market basket. As discussed earlier in this section of this final rule, the market basket used to update IRF PPS payments has been rebased and revised over the history of the IRF PPS to reflect more recent data on IRF cost structures. The IRF market basket was last rebased in the FY 2020 IRF final rule using 2016 Medicare cost reports (84 FR 39072 through 39084), the most recent year of complete data available at the time of the rebasing. We note that we did review the most recent Medicare cost report data available for IRFs submitted as of March 2022, which includes data through 2020. The compensation cost weight (wages and salaries, employee benefits, and contract labor) estimated

for 2020 was similar to the cost weight in the 2016-based IRF market basket (59 percent). Data through 2021 are incomplete at this time. Based on this preliminary analysis, the impact on the cost weights through 2020 appear minimal and it is unclear whether any trends through 2020 are reflective of sustained shifts in the cost structure for IRFs or whether they were temporary as a result of the PHE. Therefore, we believe the current 2016-based IRF market basket continues to appropriately reflect IRF cost structures. We will continue to monitor these data and any changes to the IRF market basket will be proposed in future rulemaking. We also note that we did not propose to use other methods or data sources to calculate the final market basket update for FY 2023, and therefore, we are not finalizing such an approach for this final rule.

Finally, consistent with our proposal, we have used more recent data to calculate a final IRF productivity-adjusted market basket update of 3.9 percent for FY 2023.

Lastly, regarding commenters' concerns about payment adequacy under the IRF PPS, MedPAC did a full analysis of payment adequacy for IRF providers in its March 2022 Report to Congress (*https://www.medpac.gov/document/march-2022-report-to-the-congress-medicare-payment-policy/*) and determined that, even considering the cost increases that have occurred as a result of the PHE associated with the COVID–19 pandemic, payments to IRFs continue to be more than adequate. Although they acknowledged that providers' costs have increased significantly under the pandemic, they expect these costs to normalize in subsequent years and do not anticipate any long-term effects that warrant inclusion in the annual update to IRF payments in FY 2023. In fact, MedPAC recommended a 5 percent reduction to IRF PPS payments for FY 2023. Given MedPAC's analysis, we believe that payments to IRFs continue to be more than adequate and do not believe that adjustments to the FY 2023 IRF market basket update are needed at this time.

Comment: One commenter stated that the rising labor costs over the last several years mean that IRFs may be particularly undercompensated given that the IHS Global Inc. market basket forecast uses more generalized hospital goods and services, and fails to account for the specialized training and experience IRFs require of their therapists, nurses, and other clinicians, who in turn require a higher salary than those in a more generalized hospital setting. The commenter also stated that services that IRFs provide, such as advanced rehabilitation technologies and specialized drugs, may also be outpacing other hospital-level settings of care and not properly captured in the market basket. The commenter also stated that hospitals have had to increase quantities of materials such as PPE, which the commenter stated is not captured in the market basket forecasts.

Response: As described previously, the IRF market basket measures price changes (including changes in the prices for wages and salaries) over time and would not reflect increases in costs associated with changes in the volume or intensity of input goods and services until the market basket is rebased. As stated previously, we believe the 2016-based IRF market basket continues to appropriately reflect IRF cost structures. To measure price growth for IRF wages and salaries costs, the IRF market basket uses the Employment Cost Index for wages and salaries for civilian hospital workers. We believe that this ECI is the best available price proxy to account for the occupational skill mix within IRFs. We note that we reviewed the Bureau of Labor Statistics Occupational Employment Statistics (OES) data for NAICS 622100 (General Medical and Surgical Hospitals). The OES data are one of the primary data sources used to derive the weights for the ECI. In 2016, the base year of the IRF market basket, a little over 50 percent of total estimated salaries (total employment multiplied by mean annual wage) for NAICS 622100 was attributed to Health Professional and Technical occupations, and approximately 20 percent was attributed to Health Service occupations. Therefore, in the absence of IRF-specific data, we believe that the highly skilled hospital workforce captured by the ECI for hospital workers (inclusive of therapists, nurses, other clinicians, etc.) is a reasonable proxy for the compensation component of the IRF market basket.

With regard to additional costs incurred by IRFs for PPE, we acknowledge the commenters' concern that the market basket update may not reflect certain additional costs incurred during the COVID–19 PHE. As stated previously, due to the fixed-weight nature of the index, any changes to the quantity of inputs purchased (such as increased PPE as stated by the commenter) would not be reflected in the IRF market basket update for FY 2023. However, as stated in the FY 2022 IRF PPS final rule, Medicare providers may have been eligible for additional payments to cover health-care related expenses and lost revenues attributed to COVID–19, which were intended to help healthcare providers respond to the productivity losses and extra expenses caused by the PHE. In accordance with statutory requirements, the Provider Relief Fund and American Rescue Plan Act (ARPA) (Pub. L. 117–2, March 11, 2021) rural payments may not be used to reimburse expenses or losses that have been reimbursed from other sources or that other sources are obligated to reimburse. Likewise, we do not believe that it is appropriate to account for PHE-related costs in our IRF rate setting to the extent that such costs were reimbursed by the Provider Relief Fund or may be reimbursed by the ARPA Rural Distribution program (86 FR 42375).

Comment: Several commenters had concerns with the application of the productivity adjustment to the market basket update. A couple of commenters expressed concern that the continued application of the productivity adjustment further undercuts reimbursement for providers. The commenters stated that with higher rates of inflation, the currently used TFP measure will prove especially harmful to hospitals. A few commenters requested that CMS elaborate on the specific productivity gains that are the basis of this proposed reduction to the market basket as it does not align with actual hospital experience or ongoing losses from the pandemic and a nationwide labor shortage.

One commenter stated that the assumptions underpinning the productivity adjustment are fundamentally flawed and strongly disagrees with the continuation of this policy—particularly during the PHE. Another commenter referenced CMS Office of the Actuary analysis that compares the private non-farm multifactor productivity growth measure and a hospital-specific measure (*https://www.cms.gov/files/document/productivity-memo.pdf*). The commenter urged CMS to consider the appropriateness of this reduction in context of payment adequacy for IRFs. One commenter requested that CMS monitor the impact productivity adjustments have on rehabilitation hospitals and requested that CMS provide feedback to Congress (as these were statutorily required under the Affordable Care Act), and reduce the productivity adjustment.

One commenter urged CMS to consider its regulatory authority to modify the productivity adjustment or make a PHE related exception in its application for the FY 2023 update. Another commenter requested that CMS work with Congress to permanently eliminate the reduction to hospital

payments from the productivity adjustment and further requested that CMS use its section 1135 waiver authority to remove the productivity adjustment for any fiscal year that was covered under public health emergency determination (for example, 2020, 2021, and 2022) from the calculation of market basket for FY 2023 and any year thereafter that the PHE continues.

Response: Section 1886(j)(3)(C)(ii)(I) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(xi)(II) of the Act to the IRF PPS market basket increase factor. As required by statute, the FY 2023 productivity adjustment is derived based on the 10-year moving average growth in economy-wide productivity for the period ending FY 2023. We recognize the concerns of the commenters regarding the appropriateness of the productivity adjustment; however, we are required pursuant to section 1886(j)(3)(C)(ii)(I) of the Act to apply the specific productivity adjustment described here. In addition, with respect to providing feedback to Congress, we note that MedPAC annually monitors various factors for Medicare providers in terms of profitability and beneficiary access to care and reports the findings to Congress on an annual basis. As stated previously, based on these findings, CMS believes payments to IRFs continue to be more than adequate.

Regarding the suggestion that CMS consider section 1135 waiver authority to remove the productivity adjustment, we do not believe that section 1135 authority is available in this circumstance. Section 1135 of the Act authorizes the Secretary to waive or modify only statutory provisions and regulations that pertain to the specific types of requirements that are enumerated under section 1135(b) of the Act. However, payment requirements, such as the application of the productivity adjustment under the IRF PPS, are not one of the types enumerated under section 1135(b) of the Act. Therefore, we do not believe that section 1135 of the Act would authorize the Secretary to waive the application of the productivity adjustment.

Comment: A commenter stated that given there is no provision to correct for forecast error in the market basket update in the IRF PPS, CMS should do more to account for the unique inflationary challenges currently facing the field. Another commenter stated that the forecast error adjustment proposed in the FY 2023 SNF PPS proposed rule is indicative of the complexity in accurately accounting for the unprecedented challenges driving up costs. The commenter requested CMS make an additional increase to the IRF PPS market basket factor to more closely match payment rates with the cost of IRF operations. One commenter provided a table showing the current estimates of the FY 2021 and FY 2022 IRF market basket increases (2.7 percent and 3.8 percent, respectively) relative to the FY 2021 and FY 2022 IRF market basket increases implemented in the final rules (2.4 percent and 2.6 percent, respectively). The commenter stated that the FY 2021 and the FY 2022 market basket increases were underestimated, which suggests the base rate for IRF PPS payments for FY 2023 is 1.5 percent too low. The commenter stated that this further compounds what the commenter characterized to be an inadequate increase for FY 2023.

Response: Section 1886(j)(3) of the Act requires that the Secretary shall determine a prospective payment rate for IRFs and establish an increase factor based on an appropriate percentage increase in a market basket of goods and services, which means that the update relies on a mix of both historical data for part of the period for which the update is calculated and forecasted data for the remainder. For instance, the FY 2023 market basket update in this final rule reflects historical data through the first quarter of CY 2022 and forecasted data through the third quarter of CY 2023. While there is currently no mechanism to adjust for market basket forecast error in the IRF payment update, the forecast error for a market basket update is calculated as the actual market basket increase for a given year less the forecasted market basket increase. Due to the uncertainty regarding future price trends, forecast errors can be both positive and negative. This was the case for the FY 2020 IRF forecast error, which was –0.8 percentage point, and the FY 2021 IRF forecast error, which was +0.3 percentage point; FY 2022 historical data is not yet available to calculate a forecast error for FY 2022. As noted above, forecast errors reflect both upward and downward adjustments, as appropriate. For this final rule, we have incorporated more recent historical data and forecasts to capture the price and wage pressures facing IRFs and believe it is the best available projection of inflation to determine the applicable percentage increase for the IRF payments in FY 2023. We disagree with the suggestion that the FY 2023 base rates are too low based solely on the calculation of a forecast error over a short period of time (instead of considering forecast errors over longer periods).

After consideration of the comments we received, we are finalizing a FY 2023 IRF productivity-adjusted market basket increase of 3.9 percent based on the most recent data available.

C. Labor-Related Share for FY 2023

Section 1886(j)(6) of the Act specifies that the Secretary is to adjust the proportion (as estimated by the Secretary from time to time) of IRFs' costs that are attributable to wages and wage-related costs, of the prospective payment rates computed under section 1886(j)(3) of the Act, for area differences in wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for such facilities. The labor-related share is determined by identifying the national average proportion of total costs that are related to, influenced by, or vary with the local labor market. We proposed to continue to classify a cost category as labor-related if the costs are labor-intensive and vary with the local labor market.

Based on our definition of the labor-related share and the cost categories in the 2016-based IRF market basket, we proposed to calculate the labor-related share for FY 2023 as the sum of the FY 2023 relative importance of Wages and Salaries, Employee Benefits, Professional Fees: Labor-related, Administrative and Facilities Support Services, Installation, Maintenance, and Repair Services, All Other: Labor-related Services, and a portion of the Capital-Related relative importance from the 2016-based IRF market basket. For more details regarding the methodology for determining specific cost categories for inclusion in the 2016-based IRF labor-related share, see the FY 2020 IRF PPS final rule (84 FR 39087 through 39089).

The relative importance reflects the different rates of price change for these cost categories between the base year (2016) and FY 2023. Based on IGI's fourth quarter 2021 forecast of the 2016-based IRF market basket, the sum of the FY 2023 relative importance for Wages and Salaries, Employee Benefits, Professional Fees: Labor-related, Administrative and Facilities Support Services, Installation Maintenance & Repair Services, and All Other: Labor-related Services was 69.4 percent. We proposed that the portion of Capital-Related costs that are influenced by the local labor market is 46 percent. Since the relative importance for Capital-Related costs was 8.2 percent of the 2016-based IRF market basket for FY 2023, we proposed to take 46 percent of 8.2 percent to determine the labor-

related share of Capital-Related costs for FY 2023 of 3.8 percent. Therefore, we proposed a total labor-related share for FY 2023 of 73.2 percent (the sum of 69.4 percent for the labor-related share of operating costs and 3.8 percent for the labor-related share of Capital-Related costs). We proposed that if more recent data became available after publication of the proposed rule and before the publication of this final rule (for example, a more recent estimate of the labor-related share), we would use such data, if appropriate, to determine the FY 2023 IRF labor-related share in the final rule.

Based on IGI's second quarter 2022 forecast of the 2016-based IRF market basket, the sum of the FY 2023 relative importance for Wages and Salaries, Employee Benefits, Professional Fees: Labor-related, Administrative and Facilities Support Services, Installation Maintenance & Repair Services, and All Other: Labor-related Services is 69.2 percent. Since the relative importance for Capital-Related costs is 8.1 percent of the 2016-based IRF market basket for FY 2023, we take 46 percent of 8.1 percent to determine the labor-related share of Capital-Related costs for FY 2023 of 3.7 percent. Therefore, the current estimate of the total labor-related share for FY 2023 is equal to 72.9 percent (the sum of 69.2 percent for the labor-related share of operating costs and 3.7 percent for the labor-related share of Capital-Related costs).

Table 4 shows the FY 2023 final labor-related share and the FY 2022 final labor-related share using the 2016-based IRF market basket relative importance.

TABLE 4: FY 2023 IRF Labor-Related Share and FY 2022 IRF Labor-Related Share

	FY 2023 Final Labor-Related Share [1]	FY 2022 Final Labor Related Share [2]
Wages and Salaries	48.7	48.3
Employee Benefits	11.3	11.4
Professional Fees: Labor-Related [3]	4.9	5.0
Administrative and Facilities Support Services	0.8	0.8
Installation, Maintenance, and Repair Services	1.6	1.6
All Other: Labor-Related Services	1.9	1.9
Subtotal	**69.2**	**69.0**
Labor-related portion of Capital-Related (46%)	3.7	3.9
Total Labor-Related Share	**72.9**	**72.9**

[1] Based on the 2016-based IRF market basket relative importance, IGI 2nd quarter 2022 forecast.

[2] Based on the 2016-based IRF market basket relative importance as published in the **Federal Register** (86 FR 42377).

[3] Includes all contract advertising and marketing costs and a portion of accounting, architectural, engineering, legal, management consulting, and home office contract labor costs.

We invited public comments on the proposed labor related share for FY 2023. The following is a summary of the public comments received on the proposed FY 2023 labor-related share and our responses:

Comment: One commenter suggested that CMS should consider excluding the labor portion of capital costs from the calculation of the labor-related share for FY 2023 and going forward. The commenter noted that each increase to the labor related share percentage penalizes any facility that has a wage index less than 1.0 and stated that, across this country there is a growing disparity between high-wage and low-wage States and that limiting the increase in the labor-related share helps mitigate the growing disparity.

Response: We proposed to use the FY 2023 relative importance values for the labor-related cost categories from the 2016-based IRF market basket because it accounts for more recent data regarding price pressures and cost structure of IRFs. This methodology is consistent with the determination of the labor-related share since the implementation of the IRF PPS. The labor-related cost categories reflect IRF costs that are related to, influenced by, or vary with the local labor market, which would include a portion of the capital-related costs. Therefore, we disagree with the commenter's suggestion to exclude the labor portion of capital-related costs for FY 2023 and going forward. As stated in the FY 2023 IRF proposed rule, we also proposed that if more recent data became available, we would use such data, if appropriate, to determine the FY 2023 labor-related share for the final rule. Based on IHS Global Inc.'s second quarter 2022 forecast with historical data through the first quarter of 2022, the FY 2023 labor-related share for the final rule is 72.9 percent, unchanged from the FY 2022 labor-related share.

D. Wage Adjustment for FY 2023

1. Background

Section 1886(j)(6) of the Act requires the Secretary to adjust the proportion of rehabilitation facilities' costs attributable to wages and wage-related costs (as estimated by the Secretary from time to time) by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the rehabilitation facility compared to the national average wage level for those facilities. The Secretary is required to update the IRF PPS wage index on the basis of information available to the Secretary on the wages and wage-related costs to furnish rehabilitation services. Any adjustment or updates made under section 1886(j)(6) of the Act for a FY are made in a budget-neutral manner.

For FY 2023, we proposed to maintain the policies and methodologies described in the FY 2022 IRF PPS final rule (86 FR 42377) related to the labor market area definitions and the wage index methodology for areas with wage data. Thus, we proposed to use the core based statistical areas (CBSAs) labor market area definitions and the FY 2023 pre-reclassification and pre-floor hospital wage index data. In accordance with section 1886(d)(3)(E) of the Act, the FY 2023 pre-reclassification and pre-floor hospital wage index is based on data submitted for hospital cost reporting periods beginning on or after October 1, 2018, and before October 1, 2019 (that is, FY 2019 cost report data).

The labor market designations made by the OMB include some geographic areas where there are no hospitals and, thus, no hospital wage index data on which to base the calculation of the IRF PPS wage index. We proposed to continue to use the same methodology discussed in the FY 2008 IRF PPS final rule (72 FR 44299) to address those geographic areas where there are no hospitals and, thus, no hospital wage index data on which to base the calculation for the FY 2023 IRF PPS wage index.

We invited public comment on our proposals regarding the Wage Adjustment for FY 2023.

The following is a summary of the public comments received on the proposed revisions to Wage Adjustment for FY 2023 and our responses:

Comment: Several commenters suggested that CMS revise the IRF wage index to adopt the same geographic reclassification and rural floor polices that apply to the IPPS wage index. Additionally, commenters stated that the IPPS implemented a policy to address disparities between high and low wage index hospitals beginning in FY 2020 and requested that CMS adopt a similar adjustment to address wage index disparities under the IRF PPS. One commenter also reiterated language from the FY 2021 IRF PPS final rule where we previously responded to similar comments related to the IRF wage index, noting it was unclear. The commenter also requested that CMS release data that would allow IRFs to crosswalk the IPPS wage index values after the application of the low wage index hospital policy to the IRF PPS wage indices.

Response: We appreciate the commenters' suggestion to adopt the IPPS reclassification and rural floor policies for the IRF wage index. As we do not have an IRF-specific wage index, we are unable to determine the degree, if any, to which a geographic reclassification adjustment or a rural floor policy under the IRF PPS would be appropriate. The rationale for our current wage index policies was most recently published in the FY 2022 IRF PPS final rule (86 FR 42377 through 42378) and fully described in the FY 2006 IRF PPS final rule (70 FR 47880, 47926 through 47928).

We appreciate the commenters' suggestion to adopt an adjustment to address wage disparities between high and low wage index areas under the IRF PPS. As most recently discussed in the FY 2021 IRF PPS final rule (85 FR 48424), we would like to note that the IRF wage index is derived from IPPS wage data, that is, the pre-reclassification and pre-floor inpatient PPS (IPPS) wage index discussed above in section D. Thus, to the extent that increasing wage index values under the IPPS for low wage index hospitals results in those hospitals increasing employee compensation, this increase would be reflected in the IPPS wage data that the IRF wage index is derived from and likely would result in higher wage indices for these areas under the IRF PPS. We note that IPPS wage index values are based on historical data and typically lag by four years. The hospital cost report data would reflect any changes in employee compensation, and as this data would become the basis for the IRF wage index in future years, any effects of these changes would be extended to the IRF setting.

Further, we are unable to provide crosswalk tables related to IPPS wage index policies. Data pertaining to the FY 2023 IPPS proposed rule are available at *https://www.cms.gov/medicare/medicare-fee-for-service-payment/acuteinpatientpps.* We do not have any additional data on this for the IRF PPS.

After consideration of the comments we received, we are finalizing our proposal to continue to use the updated pre-reclassification and pre-floor IPPS wage index data develop the FY 2023 IRF PPS wage index.

2. Core-Based Statistical Areas (CBSAs) for the FY 2023 IRF Wage Index

The wage index used for the IRF PPS is calculated using the pre-reclassification and pre-floor inpatient PPS (IPPS) wage index data and is assigned to the IRF on the basis of the labor market area in which the IRF is geographically located. IRF labor market areas are delineated based on the CBSAs established by the OMB. The CBSA delineations (which were implemented for the IRF PPS beginning with FY 2016) are based on revised OMB delineations issued on February 28, 2013, in OMB Bulletin No. 13–01. OMB Bulletin No. 13–01 established revised delineations for Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas in the United States and Puerto Rico based on the 2010 Census, and provided guidance on the use of the delineations of these statistical areas using standards published in the June 28, 2010 **Federal Register** (75 FR 37246 through 37252). We refer readers to the FY 2016 IRF PPS final rule (80 FR 47068 through 47076) for a full discussion of our implementation of the OMB labor market area delineations beginning with the FY 2016 wage index.

Generally, OMB issues major revisions to statistical areas every 10 years, based on the results of the decennial census. Additionally, OMB occasionally issues updates and revisions to the statistical areas in between decennial censuses to reflect the recognition of new areas or the addition of counties to existing areas. In some instances, these updates merge formerly separate areas, transfer components of an area from one area to another, or drop components from an area. On July 15, 2015, OMB issued OMB Bulletin No. 15–01, which provides minor updates to and supersedes OMB Bulletin No. 13–01 that was issued on February 28, 2013. The attachment to OMB Bulletin No. 15–01 provides detailed information on the update to statistical areas since February 28, 2013. The updates provided in OMB Bulletin No. 15–01 are based on the application of the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas to Census Bureau population estimates for July 1, 2012 and July 1, 2013.

In the FY 2018 IRF PPS final rule (82 FR 36250 through 36251), we adopted the updates set forth in OMB Bulletin No. 15–01 effective October 1, 2017, beginning with the FY 2018 IRF wage index. For a complete discussion of the adoption of the updates set forth in OMB Bulletin No. 15–01, we refer readers to the FY 2018 IRF PPS final rule. In the FY 2019 IRF PPS final rule (83 FR 38527), we continued to use the OMB delineations that were adopted beginning with FY 2016 to calculate the area wage indexes, with updates set forth in OMB Bulletin No. 15–01 that we adopted beginning with the FY 2018 wage index.

On August 15, 2017, OMB issued OMB Bulletin No. 17–01, which provided updates to and superseded OMB Bulletin No. 15–01 that was issued on July 15, 2015. The attachments to OMB Bulletin No. 17–01 provide detailed information on the update to statistical areas since July 15, 2015, and are based on the application of the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas to Census Bureau population estimates for July 1, 2014 and July 1, 2015. In the FY 2020 IRF PPS final rule (84 FR 39090 through 39091), we adopted the updates set forth in OMB Bulletin No. 17–01 effective October 1, 2019, beginning with the FY 2020 IRF wage index.

On April 10, 2018, OMB issued OMB Bulletin No. 18–03, which superseded the August 15, 2017 OMB Bulletin No. 17–01, and on September 14, 2018, OMB issued OMB Bulletin No. 18–04, which superseded the April 10, 2018 OMB Bulletin No. 18–03. These bulletins established revised

delineations for Metropolitan Statistical Areas, Micropolitan Statistical Areas, and Combined Statistical Areas, and provided guidance on the use of the delineations of these statistical areas. A copy of this bulletin may be obtained at *https://www.whitehouse.gov/wp-content/uploads/2018/09/Bulletin-18-04.pdf*.

To this end, as discussed in the FY 2021 IRF PPS proposed (85 FR 22075 through 22079) and final (85 FR 48434 through 48440) rules, we adopted the revised OMB delineations identified in OMB Bulletin No. 18–04 (available at *https://www.whitehouse.gov/wp-content/uploads/2018/09/Bulletin-18-04.pdf*) beginning October 1, 2020, including a 1-year transition for FY 2021 under which we applied a 5 percent cap on any decrease in an IRF's wage index compared to its wage index for the prior fiscal year (FY 2020). The updated OMB delineations more accurately reflect the contemporary urban and rural nature of areas across the country, and the use of such delineations allows us to determine more accurately the appropriate wage index and rate tables to apply under the IRF PPS. OMB issued further revised CBSA delineations in OMB Bulletin No. 20–01, on March 6, 2020 (available on the web at *https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf*). However, we determined that the changes in OMB Bulletin No. 20–01 do not impact the CBSA-based labor market area delineations adopted in FY 2021. Therefore, CMS did not propose to adopt the revised OMB delineations identified in OMB Bulletin No. 20–01 for FY 2022, and for these reasons CMS is likewise not making such a proposal for FY 2023.

3. Permanent Cap on Wage Index Decreases

As discussed previously in this section of the rule, we have proposed and finalized temporary transition policies in the past to mitigate significant changes to payments due to changes to the IRF PPS wage index. Specifically, for FY 2016 (80 FR 47068), we implemented a 50/50 blend for all geographic areas consisting of the wage index values computed using the then-current OMB area delineations and the wage index values computed using new area delineations based on OMB Bulletin No. 13–01. In FY 2021 (85 FR 48434), we implemented a 1-year transition to mitigate any negative effects of wage index changes by applying a 5 percent cap on any decrease in an IRF's wage index from the final wage index from FY 2020. We explained that we believed the 5-percent cap would provide greater transparency and would be administratively less complex than the prior methodology of applying a 50/50 blended wage index. We indicated that no cap would be applied to the reduction in the wage index for FY 2022, and that this transition approach struck an appropriate balance by providing a transition period to mitigate the resulting short-term instability and negative impacts on providers and time for them to adjust to their new labor market area delineations and wage index values.

In the FY 2022 final rule (86 FR 42378), commenters recommended CMS extend the transition period adopted in the FY 2021 IRF PPS final rule so that wage index values do not change by more than 5 percent from year-to-year to protect IRFs from large payment volatility. Although we acknowledged at the time that certain changes to wage index policy may significantly affect Medicare payments, we reiterated that our policy principles with regard to the wage index include generally using the most current data and information available and providing that data and information, as well as any approaches to addressing any significant effects on Medicare payments resulting from these potential scenarios, in notice and comment rulemaking. We did not propose to modify the transition policy that was finalized in the FY 2021 IRF PPS final rule, and therefore did not extend the transition period for FY 2022. With these policy principles in mind, for the FY 2023 proposed rule, we considered how best to address the potential scenarios about which commenters raised concerns in the FY 2022 final rule around IRF payment volatility; that is, scenarios in which changes to wage index policy may significantly affect Medicare payments.

In the past, we have established transition policies of limited duration to phase in significant changes to labor market areas. In taking this approach in the past, we sought to mitigate short-term instability and fluctuations that can negatively impact providers due to wage index changes. In accordance with the requirements of the IRF PPS wage index regulations at § 412.624(a)(2), we use an appropriate wage index based on the best available data, including the best available labor market area delineations, to adjust IRF PPS payments for wage differences. We have previously stated that, because the wage index is a relative measure of the value of labor in prescribed labor market areas, we believe it is important to implement new labor market area delineations with as minimal a transition as is reasonably possible. However, we recognize that changes to the wage index have the potential to create instability and significant negative impacts on certain providers even when labor market areas do not change. In addition, year-to-year fluctuations in an area's wage index can occur due to external factors beyond a provider's control, such as the COVID–19 PHE. For an individual provider, these fluctuations can be difficult to predict. So, we also recognize that predictability in Medicare payments is important to enable providers to budget and plan their operations.

In light of these considerations, we proposed a permanent approach to smooth year-to-year changes in providers' wage indexes. We proposed a policy that we believe increases the predictability of IRF PPS payments for providers, and mitigates instability and significant negative impacts to providers resulting from changes to the wage index.

As previously discussed, we believed applying a 5-percent cap on wage index decreases for FY 2021 provided greater transparency and was administratively less complex than prior transition methodologies. In addition, we believed this methodology mitigated short-term instability and fluctuations that can negatively impact providers due to wage index changes. Lastly, we believed the 5-percent cap applied to all wage index decreases for FY 2021 provided an adequate safeguard against significant payment reductions related to the adoption of the revised CBSAs. However, as discussed in the FY 2023 proposed rule (87 FR 20230), we recognize there are circumstances that a 1-year mitigation policy, like the one adopted for FY 2021, would not effectively address future years in which providers continue to be negatively affected by significant wage index decreases.

Typical year-to-year variation in the IRF PPS wage index has historically been within 5 percent, and we expect this will continue to be the case in future years. Because providers are usually experienced with this level of wage index fluctuation, we believe applying a 5-percent cap on all wage index decreases each year, regardless of the reason for the decrease, would effectively mitigate instability in IRF PPS payments due to any significant wage index decreases that may affect providers in a year. We believe this approach would address concerns about instability that commenters raised in the FY 2022 IRF PPS rule. Additionally, we believe that applying a 5-percent cap on all wage index decreases would support

increased predictability about IRF PPS payments for providers, enabling them to more effectively budget and plan their operations. Lastly, because applying a 5-percent cap on all wage index decreases would represent a small overall impact on the labor market area wage index system we believe it would ensure the wage index is a relative measure of the value of labor in prescribed labor market areas. As discussed in further detail in section XIII.C.2. of the proposed rule, we estimate that applying a 5-percent cap on all wage index decreases will have a very small effect on the wage index budget neutrality factor for FY 2023. Because the wage index is a measure of the value of labor (wage and wage-related costs) in a prescribed labor market area relative to the national average, we anticipate that in the absence of proposed policy changes most providers will not experience year-to-year wage index declines greater than 5 percent in any given year. We also believe that when the 5-percent cap would be applied under this proposal, it is likely that it would be applied similarly to all IRFs in the same labor market area, as the hospital average hourly wage data in the CBSA (and any relative decreases compared to the national average hourly wage) would be similar. While this policy may result in IRFs in a CBSA receiving a higher wage index than others in the same area (such as situations when delineations change), we believe the impact would be temporary. Therefore, we anticipate that the impact to the wage index budget neutrality factor in future years would continue to be minimal.

The Secretary has broad authority, pursuant to section 1886(j)(6) of the Act, to establish appropriate payment adjustments under the IRF PPS, including the wage index adjustment. As discussed earlier in this section, the IRF PPS regulations require us to use an appropriate wage index based on the best available data. Further, we believe that it would be appropriate to use a 5-percent cap on wage index decreases for purposes of the IRF PPS wage index adjustment for the reasons discussed in this section and in the proposed rule. Therefore, for FY 2023 and subsequent years, we proposed to apply a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, regardless of the circumstances causing the decline. That is, we proposed that an IRF's wage index for FY 2023 would not be less than 95 percent of its final wage index for FY 2022, regardless of whether the IRF is part of an updated CBSA, and that for subsequent years, a provider's wage index would not be less than 95 percent of its wage index calculated in the prior FY. This also means that if an IRF's prior FY wage index is calculated with the application of the 5-percent cap, the following year's wage index would not be less than 95 percent of the IRF's capped wage index in the prior FY. For example, if an IRF's wage index for FY 2023 is calculated with the application of the 5-percent cap, then its wage index for FY 2024 would not be less than 95 percent of its capped wage index in FY 2023. Lastly, we proposed that a new IRF would be paid the wage index for the area in which it is geographically located for its first full or partial FY with no cap applied, because a new IRF would not have a wage index in the prior FY. As we have discussed in the proposed rule, we believe this methodology would maintain the IRF PPS wage index as a relative measure of the value of labor in prescribed labor market areas, increase the predictability of IRF PPS payments for providers, and mitigate instability and significant negative impacts to providers resulting from significant changes to the wage index. In section XIII.C.2. of the proposed rule, we estimated the impact to payments for providers in FY 2023 based on the proposed policy. We also noted that we would examine the effects of this policy on an ongoing basis in the future in order to assess its appropriateness.

Subject to the aforementioned proposal becoming final, we also proposed to revise the regulation text at § 412.624(e)(1) to provide that starting October 1, 2022, CMS would apply a cap on decreases to the wage index such that the wage index applied is not less than 95 percent of the wage index applied to that IRF in the prior year.

We invited public comment on the proposed permanent cap on IRF wage index increase for FY 2023.

The following is a summary of the public comments received on the proposed revisions to the IRF wage index increase for FY 2023 and our responses:

Comment: MedPAC expressed support for the 5-percent permanent cap on wage index decreases, but recommended that the 5-percent cap limit should apply to both increases and decreases in the wage index because they stated that no provider should have its wage index value increase or decrease by more than 5 percent.

Response: We appreciate MedPAC's suggestion that the cap on wage index changes of more than 5 percent should also be applied to increases in the wage index. However, as we discussed in the FY 2023 IRF PPS proposed rule (87 FR 20230), one purpose of the proposed policy is to help mitigate the significant negative impacts of certain wage index changes. Likewise, we explained that we believe that applying a 5-percent cap on all wage index decreases would support increased predictability about IRF PPS payments for providers, enabling them to more effectively budget and plan their operations (87 FR 20231). That is, we proposed to cap decreases because we believe that a provider would be able to more effectively budget and plan when there is predictability about its expected minimum level of IRF PPS payments in the upcoming fiscal year. We did not propose to limit wage index increases because we do not believe such a policy would enable IRFs to more effectively budget and plan their operations. So, we believe it is appropriate for providers that experience an increase in their wage index value to receive the full benefit of their increased wage index value.

Comment: A few commenters requested that CMS retroactively apply the 5-percent cap policy to the FY 2022 wage index.

Response: In the FY 2021 IRF PPS rulemaking cycle, CMS proposed and finalized a one-time, 1-year transition policy to mitigate the effects of adopting OMB delineations updated in OMB Bulletin 18–04 by applying a 5-percent cap on any wage index decreases compared to FY 2020 in a budget neutral manner. In the FY 2023 proposed rule we did not propose to modify the one-time transition policy that was finalized in the FY 2021 final rule, nor did we propose to extend the transition period for FY 2022. We have historically implemented 1-year transitions, as discussed in the FY 2006 (70 FR 47921) and FY 2016 (80 FR 47068) final rules, to address CBSA changes due to substantial updates to OMB delineations. Our policy principles, as noted in the FY 2022 final rule (86 FR 42378), with regard to the wage index are to use the most updated data and information available. Therefore, the FY 2023 IRF PPS wage index policy proposal is prospective and is designed to mitigate any significant decreases beginning in FY 2023, not retroactively.

Comment: A number of commenters suggested the 5-percent cap be applied in a non-budget neutral manner.

Response: We do not believe that the permanent 5-percent cap policy for the IRF wage index should be applied in a non-budget-neutral manner. Any adjustment or updates made under section 1886(j)(6) of the Act for a FY

must be made in a manner that assures that the aggregated payments under this subsection in the fiscal year are not greater or less than those that would have been made in the year without such adjustments. In accordance with section 1186(j)(6) of the Act, our longstanding historical practice has been to implement updates to the wage index under the IRF PPS in a budget neutral manner.

After consideration of the comments we received, we are finalizing the proposed permanent 5-percent cap on wage index decreases for the IRF PPS, beginning in FY 2023 and are finalizing revisions to the regulation text at § 412.624(e)(1) to provide that starting October 1, 2022, CMS would apply a cap on decreases to the wage index such that the wage index applied is not less than 95 percent of the wage index applied to that IRF in the prior year.

4. IRF Budget-Neutral Wage Adjustment Factor Methodology

To calculate the wage-adjusted facility payment for the payment rates set forth in this final rule, we multiply the unadjusted Federal payment rate for IRFs by the FY 2023 labor-related share based on the 2016-based IRF market basket relative importance (72.9 percent) to determine the labor-related portion of the standard payment amount. A full discussion of the calculation of the labor-related share is located in section VI.C. of this final rule. We then multiply the labor-related portion by the applicable IRF wage index. The wage index tables are available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRF-Rules-and-Related-Files.html.*

Adjustments or updates to the IRF wage index made under section 1886(j)(6) of the Act must be made in a budget-neutral manner. We proposed to calculate a budget-neutral wage adjustment factor as established in the FY 2004 IRF PPS final rule (68 FR 45689) and codified at § 412.624(e)(1), as described in the steps below. We proposed to use the listed steps to ensure that the FY 2023 IRF standard payment conversion factor reflects the proposed update to the wage indexes (based on the FY 2019 hospital cost report data) and the proposed update to the labor-related share, in a budget-neutral manner:

Step 1. Calculate the total amount of estimated IRF PPS payments using the labor-related share and the wage indexes from FY 2022 (as published in the FY 2022 IRF PPS final rule (86 FR 42362)).

Step 2. Calculate the total amount of estimated IRF PPS payments using the FY 2023 wage index values (based on updated hospital wage data and considering the permanent cap on wage index decreases policy) and the FY 2023 labor-related share of 72.9 percent.

Step 3. Divide the amount calculated in step 1 by the amount calculated in step 2. The resulting quotient is the FY 2023 budget-neutral wage adjustment factor of 1.0002.

Step 4. Apply the budget neutrality factor from step 3 to the FY 2023 IRF PPS standard payment amount after the application of the increase factor to determine the FY 2023 standard payment conversion factor.

We discuss the calculation of the standard payment conversion factor for FY 2023 in section VI.E. of this final rule.

We invited public comments on the proposed IRF wage adjustment for FY 2023 (and the proposed permanent cap on wage index decreases policy).

We did not receive any comments on the proposed IRF budget-neutral wage adjustment factor methodology for FY 2023. Comments related to the proposed budget neutral wage index cap policy are addressed in the Permanent Cap on Wage Index Decreases section (VI.D.3) above. We are finalizing the IRF budget-neutral wage adjustment factor methodology as described in this final rule.

E. Description of the IRF Standard Payment Conversion Factor and Payment Rates for FY 2023

To calculate the standard payment conversion factor for FY 2023, as illustrated in Table 5, we begin by applying the increase factor for FY 2023, as adjusted in accordance with sections 1886(j)(3)(C) of the Act, to the standard payment conversion factor for FY 2022 ($17,240). Applying the 3.9 percent increase factor for FY 2023 to the standard payment conversion factor for FY 2022 of $17,240 yields a standard payment amount of $17,912. Then, we apply the budget neutrality factor for the FY 2023 wage index (taking into account the permanent cap on wage index decreases policy), and labor-related share of 1.0002, which results in a standard payment amount of $17,916. We next apply the budget neutrality factor for the CMG relative weights of 0.9979, which results in the standard payment conversion factor of $17,878 for FY 2023.

We invited public comments on the proposed FY 2023 standard payment conversion factor.

The following is a summary of the public comments received on the proposed revisions to the FY 2023 standard payment conversion factor and our responses:

Comment: One commenter recommended that CMS should increase the standard payment conversion factor to account for increased costs resulting from the implementation of version 4.0 of the IRF–PAI.

Response: We appreciate this commenter's concerns. However, we note that the IRF PPS payment rates are updated annually by an increase factor that reflects changes over time in the prices of an appropriate mix of goods and services included in the covered IRF services, as required by section 1886(j)(3)(C) of the Act. We do not have the statutory authority to make changes to the standard payment conversion factor outside of the annual market basket update and to ensure that any adjustment or update to the IRF wage index made as specified under section 1886(j)(6) of the Act will be made in a budget neutral manner that assures that the estimated aggregated payments under this subsection in the FY year are not greater or less than those that will have been made in the year without such adjustment.

After consideration of the comments we received, we are finalizing the standard payment conversion factor for FY 2023 as proposed.

TABLE 5: Calculations to Determine the FY 2023 Standard Payment Conversion Factor

Explanation for Adjustment	Calculations	
Standard Payment Conversion Factor for FY 2022		$17,240
Market Basket Increase Factor for FY 2023 (4.2%), reduced by 0.3 percentage point for the productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act	x	1.039
Budget Neutrality Factor for the Updates to the Wage Index and Labor-Related Share	x	1.0002
Budget Neutrality Factor for the Revisions to the CMG Relative Weights	x	0.9979
FY 2023 Standard Payment Conversion Factor	=	$17,878

After the application of the CMG relative weights described in section V. of this final rule to the FY 2023 standard payment conversion factor ($17,878), the resulting unadjusted IRF prospective payment rates for FY 2023 are shown in Table 6.

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TABLE 6: FY 2023 Payment Rates

CMG	Payment Rate Tier 1	Payment Rate Tier 2	Payment Rate Tier 3	Payment Rate No Comorbidity
0101	$ 17,743.92	$ 15,462.68	$ 14,039.59	$ 13,315.53
0102	$ 22,452.98	$ 19,565.68	$ 17,765.37	$ 16,850.02
0103	$ 29,182.26	$ 25,429.67	$ 23,089.44	$ 21,900.55
0104	$ 37,314.96	$ 32,516.51	$ 29,523.73	$ 28,002.31
0105	$ 44,948.87	$ 39,168.91	$ 35,562.92	$ 33,732.21
0106	$ 51,342.04	$ 44,739.70	$ 40,620.60	$ 38,528.88
0201	$ 20,053.75	$ 16,152.77	$ 14,617.05	$ 13,741.03
0202	$ 25,131.10	$ 20,241.47	$ 18,317.80	$ 17,220.09
0203	$ 30,844.91	$ 24,843.27	$ 22,483.37	$ 21,135.37
0204	$ 38,069.41	$ 30,664.35	$ 27,748.44	$ 26,085.79
0205	$ 48,317.08	$ 38,918.62	$ 35,219.66	$ 33,108.27
0301	$ 21,373.15	$ 17,229.03	$ 15,970.42	$ 14,870.92
0302	$ 27,510.67	$ 22,177.66	$ 20,556.12	$ 19,140.19
0303	$ 33,108.27	$ 26,690.07	$ 24,739.58	$ 23,035.80
0304	$ 38,532.45	$ 31,061.24	$ 28,792.52	$ 26,809.85
0305	$ 42,029.39	$ 33,880.60	$ 31,404.49	$ 29,241.26
0401	$ 23,674.05	$ 19,678.31	$ 18,677.15	$ 17,177.18
0402	$ 30,330.03	$ 25,211.56	$ 23,927.92	$ 22,007.82
0403	$ 37,427.59	$ 31,111.30	$ 29,527.30	$ 27,156.68
0404	$ 56,338.94	$ 46,831.42	$ 44,446.50	$ 40,878.05
0405	$ 46,518.56	$ 38,668.33	$ 36,698.17	$ 33,751.88
0406	$ 60,722.63	$ 50,474.96	$ 47,905.89	$ 44,058.54
0407	$ 76,419.51	$ 63,524.11	$ 60,288.19	$ 55,448.62
0501	$ 22,277.78	$ 17,545.47	$ 16,581.85	$ 15,387.59
0502	$ 27,669.78	$ 21,791.49	$ 20,593.67	$ 19,111.58
0503	$ 31,817.48	$ 25,057.80	$ 23,681.20	$ 21,977.43
0504	$ 38,623.63	$ 30,417.63	$ 28,747.82	$ 26,677.55
0505	$ 53,065.48	$ 41,791.61	$ 39,497.87	$ 36,653.48
0601	$ 24,020.88	$ 17,967.39	$ 17,019.86	$ 15,183.79
0602	$ 30,002.86	$ 22,442.25	$ 21,258.73	$ 18,964.98
0603	$ 35,800.70	$ 26,779.46	$ 25,367.09	$ 22,629.97
0604	$ 44,408.95	$ 33,217.32	$ 31,467.07	$ 28,070.25
0701	$ 22,202.69	$ 17,214.73	$ 16,440.61	$ 15,228.48
0702	$ 27,319.37	$ 21,181.85	$ 20,230.74	$ 18,739.72
0703	$ 33,998.59	$ 26,361.11	$ 25,177.59	$ 23,320.06
0704	$ 40,931.68	$ 31,737.03	$ 30,310.36	$ 28,077.40
0801	$ 20,155.66	$ 17,229.03	$ 15,594.98	$ 14,293.46
0802	$ 23,189.55	$ 19,824.91	$ 17,942.36	$ 16,445.97
0803	$ 25,567.33	$ 21,855.86	$ 19,782.01	$ 18,131.87
0804	$ 29,307.41	$ 25,054.23	$ 22,676.46	$ 20,784.96
0805	$ 35,092.73	$ 29,999.28	$ 27,153.11	$ 24,887.96
0901	$ 21,505.45	$ 17,223.67	$ 15,984.72	$ 14,738.62
0902	$ 27,165.62	$ 21,757.53	$ 20,191.41	$ 18,618.15
0903	$ 32,257.28	$ 25,835.50	$ 23,974.40	$ 22,107.93
0904	$ 37,706.49	$ 30,199.52	$ 28,025.55	$ 25,842.65
1001	$ 21,904.13	$ 19,036.49	$ 16,526.42	$ 15,180.21
1002	$ 27,203.16	$ 23,641.87	$ 20,523.94	$ 18,852.35
1003	$ 32,114.25	$ 27,911.13	$ 24,230.05	$ 22,256.32
1004	$ 40,289.86	$ 35,015.85	$ 30,399.75	$ 27,923.65
1101	$ 24,194.30	$ 24,194.30	$ 17,894.09	$ 14,307.76
1102	$ 29,405.73	$ 29,405.73	$ 21,750.37	$ 17,389.93

CMG	Payment Rate Tier 1	Payment Rate Tier 2	Payment Rate Tier 3	Payment Rate No Comorbidity
1103	$ 38,900.74	$ 38,900.74	$ 28,772.85	$ 23,003.62
1201	$ 23,445.21	$ 18,637.82	$ 16,683.75	$ 14,888.80
1202	$ 30,530.26	$ 24,271.17	$ 21,725.35	$ 19,388.69
1203	$ 37,556.31	$ 29,856.26	$ 26,725.82	$ 23,851.04
1204	$ 38,696.93	$ 30,762.67	$ 27,537.48	$ 24,575.10
1301	$ 21,466.11	$ 16,742.75	$ 15,441.23	$ 15,314.29
1302	$ 28,615.53	$ 22,320.68	$ 20,584.73	$ 20,416.68
1303	$ 33,476.56	$ 26,110.82	$ 24,079.88	$ 23,883.22
1304	$ 41,058.61	$ 32,024.86	$ 29,534.46	$ 29,293.10
1305	$ 37,896.00	$ 29,557.70	$ 27,260.37	$ 27,036.90
1401	$ 20,368.41	$ 16,086.62	$ 14,820.86	$ 13,555.10
1402	$ 25,964.22	$ 20,506.07	$ 18,891.68	$ 17,279.09
1403	$ 31,474.22	$ 24,857.57	$ 22,901.72	$ 20,945.86
1404	$ 38,555.69	$ 30,451.60	$ 28,054.16	$ 25,658.51
1501	$ 23,518.51	$ 18,312.44	$ 17,439.99	$ 16,923.31
1502	$ 28,754.98	$ 22,388.62	$ 21,323.09	$ 20,690.21
1503	$ 33,512.31	$ 26,092.94	$ 24,852.21	$ 24,113.85
1504	$ 39,966.27	$ 31,118.45	$ 29,636.36	$ 28,758.55
1601	$ 20,393.43	$ 15,789.85	$ 15,344.69	$ 14,089.65
1602	$ 23,908.25	$ 18,512.67	$ 17,990.63	$ 16,519.27
1603	$ 28,915.88	$ 22,390.41	$ 21,759.31	$ 19,980.45
1604	$ 35,789.97	$ 27,712.69	$ 26,931.42	$ 24,728.85
1701	$ 23,302.19	$ 18,358.92	$ 17,216.51	$ 15,682.58
1702	$ 29,014.21	$ 22,860.60	$ 21,437.51	$ 19,526.35
1703	$ 34,236.37	$ 26,974.33	$ 25,295.58	$ 23,041.17
1704	$ 38,798.84	$ 30,567.80	$ 28,665.59	$ 26,110.82
1705	$ 44,380.35	$ 34,965.79	$ 32,788.25	$ 29,866.99
1801	$ 21,884.46	$ 17,237.97	$ 16,127.74	$ 14,910.25
1802	$ 26,209.15	$ 20,643.73	$ 19,313.60	$ 17,856.55
1803	$ 32,827.58	$ 25,856.95	$ 24,190.72	$ 22,365.38
1804	$ 38,046.17	$ 29,967.10	$ 28,038.07	$ 25,921.31
1805	$ 45,252.79	$ 35,643.37	$ 33,347.83	$ 30,832.40
1806	$ 62,027.72	$ 48,855.21	$ 45,708.68	$ 42,260.02
1901	$ 20,169.96	$ 18,396.46	$ 17,654.53	$ 16,714.14
1902	$ 25,265.19	$ 23,044.74	$ 22,115.09	$ 20,936.93
1903	$ 37,280.99	$ 34,005.74	$ 32,632.71	$ 30,893.18
1904	$ 57,526.04	$ 52,471.93	$ 50,353.39	$ 47,669.90
2001	$ 21,455.39	$ 17,332.72	$ 15,945.39	$ 14,509.78
2002	$ 26,586.37	$ 21,478.63	$ 19,758.77	$ 17,979.90
2003	$ 31,597.58	$ 25,526.21	$ 23,482.75	$ 21,367.79
2004	$ 37,171.94	$ 30,029.68	$ 27,625.09	$ 25,138.26
2005	$ 39,826.82	$ 32,173.25	$ 29,597.03	$ 26,933.21
2101	$ 27,653.69	$ 20,767.08	$ 19,696.19	$ 18,657.48
2102	$ 42,903.62	$ 32,219.73	$ 30,557.08	$ 28,946.27
5001	$ -	$ -	$ -	$ 3,044.62
5101	$ -	$ -	$ -	$ 13,186.81
5102	$ -	$ -	$ -	$ 33,846.63
5103	$ -	$ -	$ -	$ 15,945.39
5104	$ -	$ -	$ -	$ 40,504.40

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F. Example of the Methodology for Adjusting the Prospective Payment Rates

Table 7 illustrates the methodology for adjusting the prospective payments (as described in section VI. of this final rule). The following examples are based on two hypothetical Medicare beneficiaries, both classified into CMG 0104 (without comorbidities). The unadjusted prospective payment rate for CMG 0104 (without comorbidities) appears in Table 7.

Example: One beneficiary is in Facility A, an IRF located in rural Spencer County, Indiana, and another beneficiary is in Facility B, an IRF located in urban Harrison County, Indiana. Facility A, a rural non-teaching hospital has a Disproportionate Share Hospital (DSH) percentage of 5 percent (which would result in a LIP adjustment of 1.0156), a wage index of 0.8380, and a rural adjustment of 14.9 percent. Facility B, an urban teaching hospital, has a DSH percentage of 15 percent (which would result in a LIP adjustment of 1.0454 percent), a wage index of 0.8600, and a teaching status adjustment of 0.0784.

To calculate each IRF's labor and non-labor portion of the prospective payment, we begin by taking the unadjusted prospective payment rate for CMG 0104 (without comorbidities) from Table 7. Then, we multiply the labor-related share for FY 2023 (72.9 percent) described in section VI.C. of this final rule by the unadjusted prospective payment rate. To determine the non-labor portion of the prospective payment rate, we subtract the labor portion of the Federal payment from the unadjusted prospective payment.

To compute the wage-adjusted prospective payment, we multiply the labor portion of the Federal payment by the appropriate wage index located in the applicable wage index table. This table is available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/IRF-Rules-and-Related-Files.html.*

The resulting figure is the wage-adjusted labor amount. Next, we compute the wage-adjusted Federal payment by adding the wage-adjusted labor amount to the non-labor portion of the Federal payment.

Adjusting the wage-adjusted Federal payment by the facility-level adjustments involves several steps. First, we take the wage-adjusted prospective payment and multiply it by the appropriate rural and LIP adjustments (if applicable). Second, to determine the appropriate amount of additional payment for the teaching status adjustment (if applicable), we multiply the teaching status adjustment (0.0784, in this example) by the wage-adjusted and rural-adjusted amount (if applicable). Finally, we add the additional teaching status payments (if applicable) to the wage, rural, and LIP-adjusted prospective payment rates. Table 7 illustrates the components of the adjusted payment calculation.

TABLE 7: Example of Computing the FY 2023 IRF Prospective Payment

Steps		Rural Facility A (Spencer Co., IN)		Urban Facility B (Harrison Co., IN)	
1	Unadjusted Payment		$28,002.31		$28,002.31
2	Labor-Related Share	X	0.729	X	0.729
3	Labor Portion of Payment	=	$20,413.68	=	$20,413.68
4	CBSA-Based Wage Index	X	0.8380	X	0.8600
5	Wage-Adjusted Amount	=	$17,106.67	=	$17,555.77
6	Non-Labor Amount	+	$7,588.63	+	$7,588.63
7	Wage-Adjusted Payment	=	$24,695.29	=	$25,144.39
8	Rural Adjustment	X	1.149	X	1.000
9	Wage- and Rural-Adjusted Payment	=	$28,374.89	=	$25,144.39
10	LIP Adjustment	X	1.0156	X	1.0454
11	Wage-, Rural- and LIP-Adjusted Payment	=	$28,817.54	=	$26,285.95
12	Wage- and Rural-Adjusted Payment		$28,374.89		$25,144.39
13	Teaching Status Adjustment	X	0	X	0.0784
14	Teaching Status Adjustment Amount	=	$0.00	=	$1,971.32
15	Wage-, Rural-, and LIP-Adjusted Payment	+	$28,817.54	+	$26,285.95
16	Total Adjusted Payment	=	$28,817.54	=	$28,257.27

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Thus, the adjusted payment for Facility A would be $28,817.54, and the adjusted payment for Facility B would be $28,257.27.

VII. Update to Payments for High-Cost Outliers Under the IRF PPS for FY 2023

A. Update to the Outlier Threshold Amount for FY 2023

Section 1886(j)(4) of the Act provides the Secretary with the authority to make payments in addition to the basic IRF prospective payments for cases incurring extraordinarily high costs. A case qualifies for an outlier payment if the estimated cost of the case exceeds the adjusted outlier threshold. We calculate the adjusted outlier threshold by adding the IRF PPS payment for the case (that is, the CMG payment adjusted by all of the relevant facility-level adjustments) and the adjusted threshold amount (also adjusted by all of the relevant facility-level adjustments). Then, we calculate the estimated cost of a case by multiplying the IRF's overall CCR by the Medicare allowable covered charge. If the estimated cost of the case is higher than the adjusted outlier threshold, we make an outlier payment for the case equal to 80 percent of the difference between the estimated cost of the case and the outlier threshold.

In the FY 2002 IRF PPS final rule (66 FR 41362 through 41363), we discussed our rationale for setting the outlier threshold amount for the IRF PPS so that estimated outlier payments would equal 3 percent of total estimated payments. For the FY 2002 IRF PPS final rule, we analyzed various outlier policies using 3, 4, and 5 percent of the total estimated payments, and we concluded that an outlier policy set at

3 percent of total estimated payments would optimize the extent to which we could reduce the financial risk to IRFs of caring for high-cost patients, while still providing for adequate payments for all other (non-high cost outlier) cases.

Subsequently, we updated the IRF outlier threshold amount in the FYs 2006 through 2022 IRF PPS final rules and the FY 2011 and FY 2013 notices (70 FR 47880, 71 FR 48354, 72 FR 44284, 73 FR 46370, 74 FR 39762, 75 FR 42836, 76 FR 47836, 76 FR 59256, 77 FR 44618, 78 FR 47860, 79 FR 45872, 80 FR 47036, 81 FR 52056, 82 FR 36238, 83 FR 38514, 84 FR 39054, 85 FR 48444, and 86 FR 42362, respectively) to maintain estimated outlier payments at 3 percent of total estimated payments. We also stated in the FY 2009 final rule (73 FR 46370 at 46385) that we would continue to analyze the estimated outlier payments for subsequent years and adjust the outlier threshold amount as appropriate to maintain the 3 percent target.

To update the IRF outlier threshold amount for FY 2023, we proposed to use FY 2021 claims data and the same methodology that we used to set the initial outlier threshold amount in the FY 2002 IRF PPS final rule (66 FR 41362 through 41363), which is also the same methodology that we used to update the outlier threshold amounts for FYs 2006 through 2022. The outlier threshold is calculated by simulating aggregate payments and using an iterative process to determine a threshold that results in outlier payments being equal to 3 percent of total payments under the simulation. To determine the outlier threshold for FY 2023, we estimated the amount of FY 2023 IRF PPS aggregate and outlier payments using the most recent claims available (FY 2021) and the proposed FY 2023 standard payment conversion factor, labor-related share, and wage indexes, incorporating any applicable budget-neutrality adjustment factors. The outlier threshold is adjusted either up or down in this simulation until the estimated outlier payments equal 3 percent of the estimated aggregate payments. Based on an analysis of the preliminary data used for the proposed rule, we estimated that IRF outlier payments as a percentage of total estimated payments would be approximately 3.8 percent in FY 2022. Therefore, we proposed to update the outlier threshold amount from $9,491 for FY 2022 to $13,038 for FY 2023 to maintain estimated outlier payments at approximately 3 percent of total estimated aggregate IRF payments for FY 2023.

In the proposed rule we stated we believed that updating the outlier threshold for FY 2023 would be appropriate to maintain IRF PPS outlier payments at 3 percent of total estimated payments, and we recognized that the proposed outlier threshold amount for FY 2023 would result in a significant increase from the current outlier threshold amount for FY 2022. As we continue to explore the underlying reasons for the large change in the proposed outlier threshold amount, we welcomed comments from commenters on any observations or information related to the increase in the proposed update to outlier threshold amount for FY 2023.

We note that, as we typically do, we updated our data between the FY 2023 IRF PPS proposed and final rules to ensure that we use the most recent available data in calculating IRF PPS payments. This updated data includes a more complete set of claims for FY 2021. Based on our analysis using this updated data, we estimate that IRF outlier payments as a percentage of total estimated payments are approximately 3.6 percent in FY 2022. Therefore, we will update the outlier threshold amount from $9,491 for FY 2022 to $12,526 for FY 2023 to account for the increases in IRF PPS payments and estimated costs and to maintain estimated outlier payments at approximately 3 percent of total estimated aggregate IRF payments for FY 2023.

The following is a summary of the public comments received on the proposed update to the FY 2023 outlier threshold amount and our responses.

Comment: Some commenters expressed concerns with the proposed outlier threshold amount and suggested that CMS consider making temporary changes to the outlier threshold methodology to account for changes in the data due to the COVID–19 PHE. Commenters suggested using data from FY 2019, adjusting the data to account for changes in IRF utilization associated with the pandemic, blending multiple years of data or averaging the current 2022 threshold with the proposed threshold, using a charge inflation factor from prior years, and adjusting the CCRs used in the outlier calculation.

Response: We thank the commenters for the various suggested revisions to the outlier threshold methodology. We appreciate the suggestions to use FY 2019 data and not FY 2021 claims data in determining the outlier threshold for FY 2023. However, we believe the FY 2021 data reflect changes in IRF utilization related to the PHE and will therefore be more likely to reflect IRF utilization in FY 2023, as COVID–19 will continue to impact IRFs in the future.

We also do not believe the suggestions to blend multiple years of data or determine an average of the current threshold and the proposed threshold would be appropriate, as arbitrarily lowering the outlier threshold would fail to address the fact that for FY 2022 we estimate that we are overpaying by 0.6 percent the established outlier pool of 3 percent for the IRF PPS. Additionally, our simulations assume that cost-to-charge ratios accurately reflect IRF costs and we do not believe using inflation factors from prior years would reflect the best available projection of inflation in FY 2023. We appreciate the commenters' suggestions and will take them into consideration as we continue to consider revisions to our outlier threshold methodology. We will continue to monitor the IRF outlier payments to ensure that they continue to compensate IRFs appropriately for treating unusually high-cost patients.

Comment: Some commenters suggested that CMS should include historical outlier reconciliation dollars in the outlier projections consistent with IPPS to ensure a more accurate calibration of the outlier payment amounts. These commenters requested that CMS conduct further analysis of the increasing concentration of outlier payments and provide that analysis for discussion with the field.

Response: We thank the commenters for their suggestion to include historical outlier reconciliation dollars in the outlier projections. We will continue to explore and analyze the outlier payments and will consider these suggestions for revisions to payment policies in future rulemaking, during which we will solicit public comment.

Comment: Commenters suggested that CMS consider policies that would better target outlier payments, such as placing a 10 percent cap on the amount of outlier payments any IRF could receive or lowering the 3 percent outlier pool. Additionally, commenters recommended that changes in the outlier threshold should be limited to changes in the market basket in a given year.

Response: We thank the commenters for their suggestion to the outlier threshold. Our outlier policy is intended to reimburse IRFs for treating extraordinarily costly cases. As most recently discussed in the FY 2020 IRF PPS Final Rule (84 FR 39054) any future consideration given to imposing a limit on outlier payments would have to carefully analyze and take into consideration the effect on access to IRF

care for certain high-cost populations. We continue to believe that maintaining the outlier pool at 3 percent of aggregate IRF payments optimizes the extent to which we can reduce financial risk to IRFs of caring for highest-cost patients, while still providing for adequate payments for all other non-outlier cases as discussed in the FY 2002 IRF PPS final rule (66 FR 41362 through 41363). Additionally, we do not believe it would be appropriate to limit changes in the outlier threshold to changes in the market basket as constraining adjustments to the outlier threshold may result in a threshold that generates outlier payments above or below the 3 percent target.

After consideration of the comments received and considering the most recent available data, we are finalizing the outlier threshold amount of $12,526 to maintain estimated outlier payments at approximately 3 percent of total estimated aggregate IRF payments for FY 2023.

B. Update to the IRF Cost-to-Charge Ratio Ceiling and Urban/Rural Averages for FY 2023

CCRs are used to adjust charges from Medicare claims to costs and are computed annually from facility-specific data obtained from MCRs. IRF specific CCRs are used in the development of the CMG relative weights and the calculation of outlier payments under the IRF PPS. In accordance with the methodology stated in the FY 2004 IRF PPS final rule (68 FR45692 through 45694), we proposed to apply a ceiling to IRFs' CCRs. Using the methodology described in that final rule, we proposed to update the national urban and rural CCRs for IRFs, as well as the national CCR ceiling for FY 2023, based on analysis of the most recent data available. We apply the national urban and rural CCRs in the following situations:

- New IRFs that have not yet submitted their first MCR.
- IRFs whose overall CCR is in excess of the national CCR ceiling for FY 2023, as discussed below in this section.
- Other IRFs for which accurate data to calculate an overall CCR are not available.

Specifically, for FY 2023, we proposed to estimate a national average CCR of 0.463 for rural IRFs, which we calculated by taking an average of the CCRs for all rural IRFs using their most recently submitted cost report data. Similarly, we proposed to estimate a national average CCR of 0.393 for urban IRFs, which we calculated by taking an average of the CCRs for all urban IRFs using their most recently submitted cost report data. We apply weights to both of these averages using the IRFs' estimated costs, meaning that the CCRs of IRFs with higher total costs factor more heavily into the averages than the CCRs of IRFs with lower total costs. For this final rule, we have used the most recent available cost report data (FY 2020). This includes all IRFs whose cost reporting periods begin on or after October 1, 2019, and before October 1, 2020. If, for any IRF, the FY 2020 cost report was missing or had an ''as submitted'' status, we used data from a previous FY's (that is, FY 2004 through FY 2019) settled cost report for that IRF. We do not use cost report data from before FY 2004 for any IRF because changes in IRF utilization since FY 2004 resulting from the 60 percent rule and IRF medical review activities suggest that these older data do not adequately reflect the current cost of care. Using updated FY 2020 cost report data for this final rule, we estimate a national average CCR of 0.466 for rural IRFs, and a national average CCR of 0.392 for urban IRFs.

In accordance with past practice, we proposed to set the national CCR ceiling at 3 standard deviations above the mean CCR. Using this method, we proposed a national CCR ceiling of 1.40 for FY 2023. This means that, if an individual IRF's CCR were to exceed this ceiling of 1.40 for FY 2023, we will replace the IRF's CCR with the appropriate proposed national average CCR (either rural or urban, depending on the geographic location of the IRF). We calculated the proposed national CCR ceiling by:

Step 1. Taking the national average CCR (weighted by each IRF's total costs, as previously discussed) of all IRFs for which we have sufficient cost report data (both rural and urban IRFs combined).

Step 2. Estimating the standard deviation of the national average CCR computed in step 1.

Step 3. Multiplying the standard deviation of the national average CCR computed in step 2 by a factor of 3 to compute a statistically significant reliable ceiling.

Step 4. Adding the result from step 3 to the national average CCR of all IRFs for which we have sufficient cost report data, from step 1.

We also proposed that if more recent data became available after the publication of the proposed rule and before the publication of this final rule, we would use such data to determine the FY 2023 national average rural and urban CCRs and the national CCR ceiling in the final rule. Using the updated FY 2020 cost report data for this final rule, we estimate a national average CCR ceiling of 1.41, using the same methodology.

We invited public comment on the proposed update to the IRF CCR ceiling and the urban/rural averages for FY 2023.

However, we did not receive any comments on the proposed revisions to the IRF CCR ceiling and the urban/rural averages for FY 2023, and therefore, we are finalizing a national average urban CCR at 0.392, the national average rural CCR at 0.466, and the national average CCR ceiling at 1.41 for FY 2023.

VIII. Codification and Clarifications of IRF Teaching Status Adjustment Policy

In the FY 2006 IRF PPS final rule (70 FR 47928 through 47932), we implemented § 412.624(e)(4) to establish a facility level adjustment for IRFs that are teaching hospitals or units of teaching hospitals. The teaching status adjustment accounts for the higher indirect operating costs experienced by IRFs that participate in training residents in graduate medical education (GME) programs. The teaching status payment adjustment is based on the ratio of the number of full-time equivalent (FTE) interns and residents training in the IRF divided by the IRF's average daily census. Section 1886(j)(3)(A)(v) of the Act requires the Secretary to adjust the prospective payment rates for the IRF PPS by such factors as the Secretary determines are necessary to properly reflect the variations in necessary costs of treatment among rehabilitation facilities.

We established the IRF teaching status adjustment in a manner that limited the incentives for IRFs to add FTE interns and residents for the purpose of increasing their teaching status adjustment, as has been done in the payment systems for Inpatient Psychiatric Facilities (IPF) and acute care hospitals. That is, we imposed a cap on the number of FTE interns and residents that the IRF can count for the purpose of calculating the teaching status adjustment. This cap is similar to the cap established by the Balanced Budget Act of 1997 (Pub. L. 105–33, enacted August 5, 1997) section 4621, that added section 1886(d)(5)(B)(v) of the Act (indirect medical education (IME) FTE cap for IPPS hospitals. The cap limits the number of FTE interns and residents that teaching IRFs may count for the purpose of calculating the IRF PPS teaching status adjustment, not the number of interns and residents that teaching institutions care hire or train. The cap is equal to the number of FTE interns and residents that trained in the

IRF during a ''base year,'' that is based on the most recent final settled cost report for a cost reporting period ending on or before November 15, 2004. A complete discussion of how the IRF teaching status adjustment was calculated appears in the FY 2006 IRF PPS final rule (70 FR 47928 through 47932).

In the FY 2012 IRF PPS final rule (76 FR 47846 through 47848) published on August 5, 2011, we updated the IRF PPS teaching status adjustment policy in order to maintain consistency, to the extent feasible, with the indirect medical education (IME) teaching policies that were finalized in the IPPS FY 1999 final rule (64 FR 41522), the IPPS FY 2001 final rule (66 FR 39900), and the IPF PPS teaching adjustment policies finalized in the 2012 IPF PPS final rule (76 FR 26454 through 26456). In that final rule, we adopted a policy which permits a temporary increase in the FTE intern and resident cap when an IRF increases the number of FTE residents it trains, in order to accept displaced residents because another IRF closes or closes a medical residency training program. We refer to a ''displaced'' resident or intern as one that is training in an IRF and is unable to complete training in that IRF, either because the IRF closes or closes a medical residency training program.

The cap adjustment for IRFs, adopted in the FY 2012 IRF PPS final rule, is considered temporary because it is resident-specific and will only apply to the residents until they have completed their training in the program in which they were training at the time of the IRF closure or the closure of the program. Similar to the IPPS and IPF policy for displaced residents, the IRF PPS temporary cap adjustment only applies to residents that were still training at the IRF at the time the IRF closed or at the time the IRF ceased training residents in the residency training program(s). Residents who leave the IRF, for whatever reason, before the closure of the IRF or the closure of the medical residency training program are not considered displaced residents for purposes of the IRF temporary cap adjustment policy.

In the FY 2012 IRF PPS final rule, we also adopted the IPPS definition of ''closure of a hospital'' at § 413.79(h)(1)(i) to refer to circumstances in which the IRF terminates its Medicare provider agreement, as specified in § 489.52. In this instance, we allow a temporary adjustment to an IRF's FTE cap to reflect residents added to their medical residency training program because of an IRF's closure. We allow an adjustment to an accepting IRF's FTE cap if the IRF meets the criteria outlined in the FY 2012 IRF PPS final rule (76 FR 47847). After the displaced residents leave the accepting IRF's training program or complete their medical residency training program, the accepting IRF's cap will revert to its original level. As such, the temporary adjustment to the FTE cap will be available to the IRF only for the period of time necessary for the displaced residents to complete their training.

Additionally, in the FY 2012 IRF PPS final rule, we adopted the IPPS definition of ''closure of a hospital residency training program,'' as specified in § 413.79(h)(1)(ii), which means that the hospital ceases to offer training for interns and residents in a particular approved medical residency training program. In this instance, if an IRF ceases training residents in a medical residency training program(s) and agrees to temporarily reduce its FTE cap, another IRF may receive a temporary adjustment to its FTE cap to reflect the addition of the displaced residents. For more discussion regarding the methodology for adjusting the caps for the ''receiving IRF'' and the ''IRF that closed its program,'' refer to the FY 2012 IRF PPS final rule (76 FR 47847).

A. Codification of Existing Teaching Status Adjustment Policies

In an effort to streamline the IRF PPS teaching status adjustment policies that were finalized in the FY 2006 IRF PPS final rule (70 FR 47928 through 47932) and the FY 2012 IRF PPS final rule (76 FR 47846 through 47848), we are codifying the longstanding policy so that these policies can be easily located by IRF providers and can also align, to the extent feasible, with the IPPS IME and IPF teaching adjustment policy regulations.

First, we are codifying the policy that was finalized in the FY 2006 IRF PPS final rule with respect to how CMS adjusts the Federal prospective payment on a facility basis by a factor to account for indirect teaching costs. When the teaching status adjustment policy was finalized in the FY 2006 IRF PPS final rule (70 FR 47928 through 47932), the definition of this ''factor'' and explanations of how it is computed were not included in the regulations. Rather, the more detailed definition and the explanation of the teaching status payment adjustment provided in the FY 2006 IRF PPS final rule, were published in the Medicare Claims Processing Manual (100–04, chapter 3, 140.2.5.4). Currently, § 412.624(e)(4) states that for discharges on or after October 1, 2005, CMS adjusts the Federal prospective payment on a facility basis by a factor as specified by CMS for facilities that are teaching institutions or units of teaching institutions. This adjustment is made on a claim basis as an interim payment and the final payment in full for the claim is made during the final settlement of the cost report.

Second, we are codifying the IRF policy that was adopted in the FY 2012 IRF PPS final rule (76 FR 47846 through 47848) allowing an IRF to receive a temporary adjustment to its FTE cap to reflect residents added to its teaching program because of another IRF's closure or an IRF's medical residency training program closure. We believe that codifying these longstanding policies would improve clarity and reduce administrative burden on IRF providers and others trying to locate all relevant information pertaining to the teaching hospital adjustment.

Thus, we are codifying CMS' existing IRF PPS' teaching hospital adjustment policies through amendments to §§ 412.602 and 412.624(e)(4) presented in this final rule; except as specifically noted in this final rule, our intent is to codify the existing IRF PPS teaching status adjustment policy.

We invited public comment on our proposal to amend §§ 412.602 and 412.624(e)(4) to codify our longstanding policies regarding the teaching status adjustment.

The following is a summary of the public comments received on the proposed revisions to codify the existing IRF PPS teaching status adjustment policy and our responses:

Comment: Most commenters were supportive of CMS codifying and consolidating the definition of the teaching status adjustment factor and how the adjustment is calculated in the regulation.

Response: We thank the commenters for their support to codify current regulatory guidelines that were previously located in the Medicare Claims Processing Manual, Chapter 3, Section 140 and were established in the FY 2006 IRF PPS Final Rule (70 FR 47880) and modified in the FY 2012 IRF PPS Final Rule (76 FR 47836). We continue to believe that codifying the requirements will improve clarity and reduce administrative burden for IRFs.

After consideration of the comments we received, we are codifying the IRF PPS teaching status adjustment calculation in §§ 412.602 and 412.624(e)(4), as proposed.

B. Update to the IRF Teaching Policy on IRF Program Closures and Displaced Residents

For FY 2023, we proposed to change the IRF policy pertaining to displaced residents resulting from IRF closures and closures of IRF residency teaching programs. Specifically, we proposed to adopt conforming changes to the IRF PPS teaching status adjustment policy to align with the policy changes that the IPPS finalized in the FY 2021 IPPS final rule (85 FR 58432, 58865 through 58870) and that the IPF finalized in the FY 2022 IPF PPS final rule (86 FR 42608, 42618 through 42621). We believe that the IRF teaching status adjustment policy relating to hospital closure and displaced residents is susceptible to the same vulnerabilities as the IPPS IME policy. Hence, if an IRF with residents training in its residency program announces it is closing, these residents will become displaced and will need to find alternative positions at other IRFs or risk being unable to become board-certified.

We proposed to implement the policy discussed in this section to remain consistent with the IPPS policy for calculating the temporary IME resident cap adjustment in situations where the receiving hospital assumes the training of displaced residents due to another hospital or residency program's closure. We also proposed that, in the future, we would deviate from the IPPS IME policy as it pertains to counting displaced residents for the purposes of the IRF teaching status adjustment only when it is necessary and appropriate for the IRF PPS.

The policy adopted in the FY 2012 IRF PPS final rule (76 FR 47846 through 47848), published August 5, 2011, permits an IRF to temporarily adjust its FTE cap to reflect displaced residents added to their residency program because of another IRF closure or IRF residency program closure. In that final rule, we adopted the IPPS definition of ''closure of a hospital'' at § 413.79(h)(1)(i) to also apply to IRF, and to mean that the IRF terminates its Medicare provider agreement as specified in § 489.52. We also adopted the IPPS definition of ''closure of a hospital residency training program'' as it is currently defined at § 413.79(h)(1)(ii) to also apply to IRF residency training program closures, and to mean that the IRF ceases to offer training for residents in a particular approved medical residency training program. In this final rule, we are codifying both of these definitions within the IRF PPS definitions section provided at § 412.602 so that the IRF teaching policies are more centrally located and more easily accessible.

Although not explicitly stated in the regulations, our current policy is that a displaced resident is one that is physically present at the hospital training on the day prior to or the day of hospital or residency program closure. This longstanding policy derived from the fact that there are requirements that the receiving IRF identifies the residents ''who have come from the closed IRF'' or identifies the residents ''who have come from another IRF's closed residency program,'' and that the IRF that closed its program identifies ''the residents who were in training at the time of the residency program's closure.'' We considered the residents who were physically present at the IRF to be those residents who were ''training at the time of the program's closure,'' thereby granting them the status of ''displaced residents.'' Although we did not want to limit the ''displaced residents'' to only those physically present at the time of closure, it becomes much more administratively challenging for the following groups of residents at closing IRFs/residency programs to continue their training:

(1) Residents who leave the program after the closure is publicly announced to continue training at another IRF, but before the actual closure;

(2) Residents assigned to and training at planned rotations at other IRFs who will be unable to return to their rotations at the closing IPF or program; and

(3) Individuals (such as medical students or would-be fellows) who matched into resident programs at the closing IRF or residency program, but have not yet started training at the closing IRF or residency program.

Other groups of residents who, under current policy, are already considered ''displaced residents'' include—

(1) Residents who are physically training in the IRF on the day prior to or day of residency program or IRF closure; and

(2) Residents who would have been at the closing IRF or IRF residency program on the day prior to or day of closure, but were on approved leave at that time, and are unable to return to their training at the closing IRF or IRF residency training program.

We proposed to amend our IRF policy with regard to closing teaching IRFs and closing IRF medical residency training programs to address the needs of interns and residents attempting to find alternative IRFs in which to complete their training. Additionally, this proposal addresses the incentives of originating and receiving IRFs with regard to ensuring we appropriately account for their indirect teaching costs by way of an appropriate IRF teaching adjustment based on each program's FTE resident count. We proposed to make changes to the current IRF teaching status adjustment policy related to displaced residents as discussed below.

First, rather than link the status of displaced residents for the purpose of the receiving IRF's request to increase their FTE cap to the resident's presence at the closing IRF or program on the day prior to or the day of the residency program or IRF closure, we proposed to link the status of the displaced residents to the day that the closure was publicly announced (for example, via a press release or a formal notice to the Accreditation Council on Graduate Medical Education). This would provide great flexibility for the interns and residents to transfer while the IRF operations or teaching programs are winding down, rather than waiting until the last day of IRF or IRF teaching program operation. This would address the needs of the group of residents who would leave the program after the closure was publicly announced to continue training at another hospital, but before the day of actual closure.

Second, by removing the link between the status of displaced residents and their presence at the closing IRF or residency program on the day prior to or the day of the IRF closure or program closure, we proposed to also allow the residents assigned to and training at planned rotations at other IRFs who will be unable to return to their rotations at the closing IRF or program and individuals (such as medical students or would-be fellows) who matched into resident programs at the closing IRF or residency program, but have not yet started training at the closing IRF or residency program, to be considered a displaced resident.

Thus, we proposed to revise our teaching policy with regard to which residents can be considered ''displaced'' for the purpose of the receiving IRF's request to increase their IRF cap in the situation where an IRF announces publicly that it is closing, and/or that it is closing an IRF residency program. Specifically, we proposed to adopt the FY 2021 IPPS final rule definition of ''displaced resident'' as defined at § 413.79(h)(1)(ii), for the purpose of calculating the IRF's teaching status adjustment.

In addition, we proposed to change another detail of the policy specific to the requirements for the receiving IRF. To apply for the temporary increase in

the FTE resident cap, the receiving IRF would have to submit a letter to its Medicare Administrative Contractor (MAC) within 60 days after beginning to train the displaced interns and residents. As established in the FY 2012 IRF PPS final rule, this letter must identify the residents who have come from the closed IRF or closed residency program and caused the receiving IRF to exceed its cap, and must specify the length of time that the adjustment is needed. Furthermore, to maintain consistency with the IPPS IME policy, we proposed that the letter must also include:

(1) The name of each displaced resident;

(2) The last four digits of each displaced resident's social security number; this will reduce the amount of personally identifiable information (PII);

(3) The name of the IRF and the name of the residency program or programs in which each resident was training at previously; and

(4) The amount of the cap increase needed for each resident (based on how much the receiving IRF is in excess of its cap and the length of time for which the adjustments are needed).

As we previously discussed in the FY 2012 IRF PPS final rule (76 FR 47846 through 47848), we are also clarifying that the maximum number of FTE resident cap slots that could be transferred to all receiving IRFs is the number of FTE resident cap slots belonging to the IRF that has closed the resident training program, or that is closing. Therefore, if the originating IRF is training residents in excess of its cap, then being a displaced resident does not guarantee that a cap slot will be transferred along with the resident. Therefore, we proposed that if there are more IRF displaced residents than available cap slots, the slots may be apportioned according to the closing IRF's discretion. The decision to transfer a cap slot if one is available would be voluntary and made at the sole discretion of the originating IRF. However, if the originating IRF decides to do so, then it would be the originating IRF's responsibility to determine how much of an available cap slot would go with a particular resident (if any). We also note that, as we previously discussed in the FY 2012 IRF PPS final rule (76 FR 47846 through 47848), only to the extent a receiving IRF would exceed its FTE cap by training displaced residents would it be eligible for a temporary adjustment to its resident FTE cap. As such, displaced residents are factored into the receiving IRF's ratio of resident FTEs to the facility's average daily census.

We invited public comment on the proposed updates to the IRF teaching policy.

The following is a summary of the public comments received on the proposed updates to the IRF teaching policy and our responses:

Comment: Commenters were generally supportive of our proposal to amend §§ 412.602 and 412.624(e)(4) to codify our longstanding policies regarding the teaching status adjustment. These commenters stated that they appreciated us clarifying the definition of a displaced resident for the purpose of reallocating the FTE to a new IRF, mitigating prior delayed transfer issues.

Response: We thank the commenters for their support to codify longstanding policies regarding the teaching status adjustment.

Comment: While expressing support for the proposed codification of the regulations, one commenter stated that the increases in the FTE resident caps for IRFs should be made permanent, similar to what is done for IPPS hospitals in accordance with Section 5506 of the Patient Protection and Affordable Care Act (PPACA) (Pub. L. 111–148).

Response: We appreciate the commenter's concern, but Section 5506 of the PPACA does not apply to IRFs, and we do not believe that it would be appropriate to permanently increase the number of FTE resident cap slots available in the IRF PPS.

After consideration of the comments we received, we are finalizing the proposed updates to the IRF teaching policies in §§ 412.602 and 412.624(e)(4), as proposed.

IX. Solicitation of Comments Regarding the Facility-Level Adjustment Factor Methodology

Section 1886(j)(3)(A)(v) of the Act confers broad authority upon the Secretary to adjust the per unit payment rate ''by such other factors as the Secretary determines are necessary to properly reflect variations in necessary costs of treatment among rehabilitation facilities.'' Under this authority, we currently adjust the prospective payment amount associated with a CMG to account for facility-level characteristics such as a facility's percentage of low-income patients (LIP), teaching status, and location in a rural area, if applicable, as described in § 412.624(e).

The facility-level adjustment factors are intended to account for differences in costs attributable to the different types of IRF providers and to better align payments with the costs of providing IRF care. The LIP and rural facility-level adjustment factors have been utilized since the inception of the IRF PPS, while the teaching status adjustment factor was finalized in the FY 2006 IRF PPS final rule (70 FR 47880) when our regression analysis indicated that it had become statistically significant in predicting IRF costs. Each of the facility-level adjustment factors were implemented using the same statistical approach, that is, utilizing coefficients determined from regression analysis.

Historically, we have observed relatively large fluctuations in these factors from year-to-year which led us to explore a number of options to provide greater stability and predictability between years and increase the accuracy of Medicare payments for IRFs. In addition to holding these factors constant over multiple years to mitigate fluctuations in payments, we also implemented a number of refinements to the methodology used to calculate the adjustment factors in efforts to better align payments with the costs of care. For example, in FY 2010 (74 FR 39762) we implemented a 3-year moving average approach to updating the facility-level adjustment factors to promote more consistency in the adjustment factors over time. Additionally, in FY 2014 (78 FR 47859) we added an indicator variable for a facility's freestanding or hospital-based status to the payment regression to improve the accuracy of the IRF payment adjustments. This variable was added to control for differences in cost structure between hospital-based and freestanding IRFs in the regression analysis, so that these differences would not inappropriately influence the adjustment factor estimates. We refer readers to the FY 2015 IRF PPS final rule (79 FR 45882 through 45883) for a full discussion of the refinements that have been made to the methodology used to determine the facility-level adjustment factors and other analysis that has been considered over time. Due to the revisions to the regression analysis and the substantive changes to the facility-level adjustment factors that were adopted in the FY 2014 IRF PPS final rule, we finalized a proposal in the FY 2015 IRF PPS final rule (79 FR 45871) to freeze the facility-level adjustment factors for FY 2015 and all subsequent years at the FY 2014 levels while we continued to monitor changes in the adjustment factors over time. Table 8 shows how the IRF facility-level adjustment factors have changed over time since the start of the IRF PPS:

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TABLE 8: Historic IRF Facility-level Adjustment Factors

	FY 2002-2005	FY 2006- 2009	FY 2010- 2013	FY 2014- Current
LIP	0.4838	0.6229	0.4613	0.3177
Teaching	N/A	0.9012	0.6876	1.0163
Rural	0.191	0.213	0.184	0.149

We have continued monitoring the adjustment factors using the same methodology described in the FY 2014 IRF PPS final rule (78 FR 47869). That is, we have continued to calculate the facility-level adjustment factors using the following the steps:

(Steps 1 and 2 are performed independently for each of three years of IRF claims data)

Step 1. Calculate the average cost per case for each IRF in the available IRF claims data.

Step 2. Perform a logarithmic regression analysis on the average cost per case to compute the coefficients for the rural, LIP, and teaching status adjustments. This regression analysis incorporates an indicator variable to account for whether a facility is a freestanding IRF hospital or a unit of an acute care hospital (or a CAH).

Step 3. Calculate a mean for each of the coefficients across the 3 years of data (using logarithms for the LIP and teaching status adjustment coefficients (because they are continuous variables), but not for the rural adjustment coefficient (because the rural variable is either zero (if not rural) or 1 (if rural)). To compute the LIP and teaching status adjustment factors, we convert these factors back out of the logarithmic form.

Additional information on the regression analysis used to calculate the facility-level adjustment factors can be found on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientRehabFacPPS/Research.* We have continued to monitor changes in the facility-level adjustment factors for each FY since they were frozen in FY 2015 at the FY 2014 levels. Table 9, contains the rural, LIP, and teaching status adjustment factors for each FY since they were frozen at their 2014 levels.

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TABLE 9: IRF Facility Level Adjustment Factor Changes

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
LIP	0.3177	0.3809	0.4363	0.3880	0.4377	0.4572	0.4367	0.4382	0.4165	0.5092
Teaching	1.0163	1.9791	3.1820	3.0946	2.2472	2.1450	2.4413	3.0467	3.3506	3.7910
Rural	0.149	0.141	0.130	0.124	0.107	0.099	0.090	0.096	0.107	0.100

Table 10 shows the potential estimated impacts of updating the facility-level adjustments for FY 2023.

TABLE 10: Distributional Effects of the FY 2023 Facility Level Adjustment Factors

Facility Classification	Number of IRFs	Number of Cases	Rural Adjustment	LIP Adjustment	Teaching Adjustment
(1)	(2)	(3)	(4)	(5)	(6)
Total	1,115	380,165	0.0	0.0	0.0
Urban unit	653	143,947	0.2	0.3	1.6
Rural unit	133	17,660	-3.5	0.0	-2.5
Urban hospital	317	213,377	0.2	-0.2	-0.9
Rural hospital	12	5,181	-3.9	-0.7	-2.9
Urban For-Profit	396	206,158	0.2	-0.3	-1.9
Rural For-Profit	35	8,048	-3.8	-0.4	-2.8
Urban Non-Profit	489	132,251	0.2	0.3	1.9
Rural Non-Profit	88	12,252	-3.4	-0.1	-2.4
Urban Government	85	18,915	0.2	0.7	7.8
Rural Government	22	2,541	-3.5	0.1	-2.6
Urban	970	357,324	0.2	0.0	0.2
Rural	145	22,841	-3.6	-0.2	-2.6
Urban by region					
Urban New England	29	13,576	0.2	0.1	0.7
Urban Middle Atlantic	121	41,622	0.2	0.0	5.4
Urban South Atlantic	158	75,753	0.2	-0.2	-1.2
Urban East North Central	158	44,520	0.2	0.2	1.8
Urban East South Central	55	25,224	0.2	-0.4	-1.7
Urban West North Central	76	21,675	0.2	0.3	1.5
Urban West South Central	197	83,013	0.2	-0.6	-2.1
Urban Mountain	79	27,597	0.2	0.6	-0.7
Urban Pacific	97	24,344	0.2	1.4	-0.4
Rural by region					
Rural New England	5	1,116	-3.5	-0.3	-2.5
Rural Middle Atlantic	10	926	-3.4	-0.6	-2.4
Rural South Atlantic	16	4,000	-3.9	-0.8	-2.9
Rural East North Central	23	3,379	-3.5	-0.2	-2.5
Rural East South Central	20	3,626	-3.7	0.6	-2.8
Rural West North Central	20	2,579	-3.3	-0.4	-2.3
Rural West South Central	42	6,514	-3.6	-0.1	-2.6
Rural Mountain	6	379	-3.4	-0.3	-2.4
Rural Pacific	3	322	-1.7	1.1	-0.8
Teaching status					

Facility Classification	Number of IRFs	Number of Cases	Rural Adjustment	LIP Adjustment	Teaching Adjustment
Non-teaching	1,012	335,417	0.0	-0.2	-2.7
Resident to ADC less than 10%	59	32,213	0.2	0.9	9.0
Resident to ADC 10%-19%	34	11,327	0.2	0.7	23.8
Resident to ADC greater than 19%	10	1,208	0.2	1.6	102.1
Disproportionate share patient percentage (DSH PP)					
DSH PP = 0%	64	11,557	0.1	-1.8	-2.2
DSH PP <5%	127	49,049	-0.1	-1.6	-2.7
DSH PP 5%-10%	260	105,962	0.0	-1.0	-2.6
DSH PP 10%-20%	388	140,935	0.0	0.1	0.3
DSH PP greater than 20%	276	72,662	0.1	2.1	4.2

Table 10 shows how we estimated that the application of the FY 2023 facility-level adjustment factors would affect particular groups if we were to implement updates to these factors for FY 2023. Table 10 categorizes IRFs by geographic location, including urban or rural location, and location for CMS' 9 Census divisions of the country. In addition, Table 10 divides IRFs into those that are separate rehabilitation hospitals (otherwise called freestanding hospitals in this section), those that are rehabilitation units of a hospital (otherwise called hospital units in this section), rural or urban facilities, ownership (otherwise called for-profit, non-profit, and government), by teaching status, and by disproportionate share patient percentage (DSH PP).

Note that, because the facility-level adjustment factors are implemented in a budget-neutral manner, total estimated aggregate payments to IRFs would not be affected. However, these updates would affect the distribution of payments across providers.

Typically, the facility-level adjustment factors have been updated on an intermittent basis to reflect changes in the costs of caring for patients. However, given the magnitude of the increases we are consistently seeing in the teaching status adjustment we do not believe that they are true reflections of the higher costs of teaching IRFs. In addition, we are concerned with the negative effects that the inordinately high teaching status adjustments would have on rural IRFs, given that the updates would be implemented in a budget neutral manner.

Given the changes in the teaching status adjustment and the rural adjustment from their 2014 levels and the potential payment impacts associated with these adjustments, we solicited comments from interested parties on the methodology used to determine the facility-level adjustment factors and suggestions for possible updates and refinements to this methodology. Additionally, we welcomed ideas and suggestions as to what could be driving the changes observed in these adjustment factors from year-to-year.

While we will not be responding to specific comments submitted in response to the solicitation of comments regarding the facility-level adjustment factor methodology in this final rule, we appreciate all of the comments we received. We will take these comments and suggestions into account in future development of payment policies.

X. Solicitation of Comments Regarding the IRF Transfer Payment Policy

In the Medicare Program; Prospective Payment System for Inpatient Rehabilitation Facilities final rule that appeared in the August 7, 2001 **Federal Register** (66 FR 41353 through 41355), we finalized a transfer payment policy under § 412.624(f) to provide for payments that more accurately reflect facility resources used and services delivered. This reflected our belief that it is important to minimize the inherent incentives specifically associated with the early transfer of patients in a discharge-based payment system. Specifically, we were concerned that incentives might exist for IRFs to discharge patients prematurely, as well as to admit patients that may not be able to endure intense inpatient therapy services. Even if patients were transferred before receiving the typical, full course of inpatient rehabilitation, the IRF could still be paid the full CMG payment rate in the absence of a transfer payment policy. Length of stay has been shown to be a good proxy measure of costs. Thus, in general, reducing lengths of stay would be profitable under the IRF prospective payment system. To address these concerns, we therefore implemented a transfer payment policy, which took effect beginning January 1, 2002, that, under certain circumstances, reduced the full CMG payment rate when a Medicare beneficiary is transferred.

The IRF transfer payment policy applies to IRF stays that are less than the average length of stay for the applicable CMG and tier and are transferred directly to another institutional site, including another IRF, an inpatient hospital, a nursing home that accepts payment under Medicare and Medicaid, or a long-term care hospital. However, the IRF transfer payment policy currently does not apply to IRF stays that are less than the average length of stay for the applicable CMG and tier and are transferred to home health care.

In the August 7, 2001 final rule (66 FR 41353 through 41355), we stated that we did not propose to include early discharges to home health care as part of the transfer payment policy because there were analytical challenges as a result of the recent implementation of the new home health prospective payment system. However, to date, the analytical challenges would not present an issue as we believe the home health payment system is well established with an adequate supply of claims data.

A recent Office of Inspector General (OIG) report, ''Early Discharges From Inpatient Rehabilitation Facilities to Home Health Services'' [13] recommends that CMS expand the IRF transfer payment policy to apply to early discharges to home health. The OIG recommends that the IRF PPS should update its transfer payment policy, similar to the IPPS transfer payment policy, to include home health. The OIG conducted an audit of calendar year 2017 and 2018 Medicare claims data and determined that if CMS had expanded its IRF transfer payment policy to include early discharges to home health it could have realized a significant savings of approximately $993 million over the 2-year period to Medicare.

Initially, home health was not added to the IRF transfer policy due to a lack of home health claims data under the newly-established prospective payment system that we could analyze to determine the impact of this policy change. However, given the findings from the recent OIG report mentioned above, we plan to analyze home health claims data to determine the appropriateness of including home health in the IRF transfer policy:

- Beyond the existing Medicare claims data, under what circumstances, and for what types of patients (in terms of clinical, demographic, and geographic characteristics) do IRFs currently transfer patients to home health?
- Should we consider a policy similar to the IPPS transfer payment policy (see § 412.4(a), (b) and (c))—such as including as part of the IRF transfer payment policy a discharge from an IRF to home health under a written plan for the provision of home health services from a home health agency and those services to begin within 48 hours of referral, or within 48 hours of the patient's return home (see § 484.55(a)(1)), or on the provider's start of care date?
- What impact, if any, do interested parties believe this proposed policy change could have on patient access to appropriate post-acute care services?

While we will not be responding to specific comments submitted in response to the solicitation of comments regarding the IRF transfer payment policy in this final rule, we appreciate all of the comments we received. We will use this information from public commenters in conjunction with our future analysis for potential rulemaking.

XI. Inpatient Rehabilitation Facility (IRF) Quality Reporting Program (QRP)

A. Background and Statutory Authority

The Inpatient Rehabilitation Facility Quality Reporting Program (IRF QRP) is authorized by section 1886(j)(7) of the Act, and it applies to freestanding IRFs, as well as inpatient rehabilitation units of hospitals or Critical Access Hospitals (CAHs) paid by Medicare under the IRF PPS. Under the IRF QRP, the Secretary must reduce by 2 percentage points the annual increase factor for discharges occurring during a fiscal year for any IRF that does not submit data in accordance with the IRF QRP requirements established by the Secretary. For more information on the background and statutory authority for the IRF QRP, we refer readers to the FY 2012 IRF PPS final rule (76 FR 47873 through 47874), the CY 2013 Hospital Outpatient Prospective Payment System/Ambulatory Surgical Center (OPPS/ASC) Payment Systems and Quality Reporting Programs final rule (77 FR 68500 through 68503), the FY 2014 IRF PPS final rule (78 FR 47902), the FY 2015 IRF PPS final rule (79 FR 45908), the FY 2016 IRF PPS final rule (80 FR 47080 through 47083), the FY 2017 IRF PPS final rule (81 FR 52080 through 52081), the FY 2018 IRF PPS final rule (82 FR 36269 through 36270), the FY 2019 IRF PPS final rule (83 FR 38555 through 38556), the FY 2020 IRF PPS final rule (84 FR 39054 through 39165), and the FY 2022 IRF PPS final rule (86 FR 42384 through 42408).

B. General Considerations Used for the Selection of Measures for the IRF QRP

For a detailed discussion of the considerations we use for the selection of IRF QRP quality, resource use, or other measures, we refer readers to the FY 2016 IRF PPS final rule (80 FR 47083 through 47084).

1. Quality Measures Currently Adopted for the FY 2023 IRF QRP

The IRF QRP currently has 18 measures for the FY 2023 program year, which are set out in Table 11.

[13] Office of the Inspector General. December 7, 2021 Early Discharges From Inpatient Rehabilitation Facilities to Home Health Services [Report No. A–01–20–00501] *https://oig.hhs.gov.*

TABLE 11: Quality Measures Currently Adopted for the FY 2023 IRF QRP

Short Name	Measure Name & Data Source
IRF-PAI Assessment-Based Measures	
Pressure Ulcer/Injury	Changes in Skin Integrity Post-Acute Care: Pressure Ulcer/Injury.
Application of Falls	Application of Percent of Residents Experiencing One or More Falls with Major Injury (Long Stay).
Application of Functional Assessment	Application of Percent of Long-Term Care Hospital (LTCH) Patients with an Admission and Discharge Functional Assessment and a Care Plan That Addresses Function (NQF #2631).
Change in Mobility	IRF Functional Outcome Measure: Change in Mobility Score for Medical Rehabilitation Patients (NQF #2634).
Discharge Mobility Score	IRF Functional Outcome Measure: Discharge Mobility Score for Medical Rehabilitation Patients (NQF #2636).
Change in Self-Care	IRF Functional Outcome Measure: Change in Self-Care Score for Medical Rehabilitation Patients (NQF #2633).
Discharge Self-Care Score	IRF Functional Outcome Measure: Discharge Self-Care Score for Medical Rehabilitation Patients (NQF #2635).
DRR	Drug Regimen Review Conducted With Follow-Up for Identified Issues–Post Acute Care (PAC) Inpatient Rehabilitation Facility (IRF) Quality Reporting Program (QRP).
TOH-Provider*	Transfer of Health Information to the Provider–Post-Acute Care (PAC).
TOH-Patient*	Transfer of Health Information to the Patient Post-Acute Care (PAC).
NHSN	
CAUTI	National Healthcare Safety Network (NHSN) Catheter-Associated Urinary Tract Infection Outcome Measure (NQF #0138).
CDI	National Healthcare Safety Network (NHSN) Facility-wide Inpatient Hospital-onset *Clostridium difficile* Infection (CDI) Outcome Measure (NQF #1717).
HCP Influenza Vaccine	Influenza Vaccination Coverage among Healthcare Personnel (NQF #0431).
HCP COVID-19 Vaccine	COVID-19 Vaccination Coverage among Healthcare Personnel (HCP)
Claims-Based	
MSPB IRF	Medicare Spending Per Beneficiary (MSPB)–Post Acute Care (PAC) IRF QRP (NQF #3561).
DTC	Discharge to Community–PAC IRF QRP (NQF #3479).
PPR 30 day	Potentially Preventable 30-Day Post-Discharge Readmission Measure for IRF QRP.
PPR Within Stay	Potentially Preventable Within Stay Readmission Measure for IRFs.

*In response to the public health emergency (PHE) for the Coronavirus Disease 2019 (COVID-19), CMS released an interim final rule (85 FR 27595 through 27596) which delayed the compliance date for the collection and reporting of the Transfer of Health Information measures. The compliance date for the collection and reporting of the Transfer of Health Information measures was revised to October 1, 2022 in the CY 2022 Home Health Prospective Payment System Rate Update final rule (86 FR 62381 through 62386).

There were no proposals in the proposed rule for new measures for the IRF QRP.

C. IRF QRP Quality Measure Concepts for Future Years: Request for Information (RFI)

We sought input on the importance, relevance, and applicability of each of the concepts under consideration listed in Table 12 for future years in the IRF QRP. More specifically, we sought input on a cross-setting functional measure that would incorporate the domains of self-care and mobility. Our measure development contractor for the cross-setting functional outcome measure convened a Technical Expert Panel (TEP) on June 15 and June 16, 2021 to obtain expert input on the development of a functional outcome measure for PAC. During this meeting, the possibility of creating one measure to capture both self-care and mobility was discussed. We also sought input on measures of health equity, such as structural measures that assess an organization's leadership in advancing equity goals or assess progress toward achieving equity priorities. Finally, we sought input on the value of a COVID–19 Vaccination Coverage measure that would assess whether IRF patients were up to date on their COVID–19 vaccine.

TABLE 12: Future Measure Concepts Under Consideration for the IRF QRP

Quality Measure Concepts
Cross-Setting Function
Health Equity Measures
PAC - COVID-19 Vaccination Coverage among Patients

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We received several comments on this RFI, which are summarized below:

Comment: A majority of commenters generally supported the inclusion of a cross-setting function measure in the IRF QRP, while many commenters requested additional information pertaining to data collection and measure specifications. Several commenters urged CMS to ensure the measure is meaningful and appropriately implemented for all settings. One commenter stated they preferred separate quality measures for self-care and mobility, but would support the initial use of a composite measure reflecting both self-care and mobility function.

Commenters did not address the concept of a health equity measure but cautioned CMS on additional provider burden for new measures and encouraged CMS to leverage existing data elements.

Several commenters were generally supportive of the inclusion of the PAC—COVID–19 Vaccination Coverage among Patients measure in the IRF QRP. However, some caveated their support and requested further details regarding measure specifications and NQF endorsement. Several commenters raised concerns about the guidance around boosters, as well as whether an IRF length of stay allows for meaningful distinctions among facilities.

Response: We appreciate the input provided by commenters. While we will not be responding to specific comments submitted in response to this RFI in this final rule, we intend to use this input to inform our future measure development efforts.

D. Inclusion of the National Healthcare Safety Network (NHSN) Healthcare-Associated Clostridioides difficile Infection Outcome Measure in the IRF QRP—Request for Information

1. Solicitation of Public Comment

In section XI.D. of the proposed rule, we requested stakeholder input on the potential electronic submission of quality data from IRFs via their electronic health records (EHRs) under the IRF QRP. We specifically sought comment on the future inclusion of the NHSN Healthcare-Associated *Clostridioides difficile* Infection Outcome measure (HA–CDI) (MUC2021–098) as a digital quality measure in the IRF QRP.

Specifically, we sought comment on the following:

- Would you support utilizing IRF EHRs as the mechanism of data collection and submission for IRF QRP measures?
- Would your EHR support exposing data via HL7 FHIR to a locally installed Measure Calculation Tool (MCT)? For IRFs using certified health IT systems, how can existing certification criteria under the Office of the National Coordinator (ONC) Health Information Technology (IT) Certification Program support reporting of this data? What updates, if any, to the Certification Program would be needed to better support capture and submission of this data?
- Is a transition period between the current method of data submission and an electronic submission method necessary? If so, how long of a transition would be necessary and what specific factors are relevant in determining the length of any transition?
- Would vendors, including those that service IRFs, be interested in or willing to participate in pilots or voluntary electronic submission of quality data?
- Do IRFs anticipate challenges, other than the adoption of EHR to adopting the HA–CDI, and if so, what are potential solutions for those challenges?

We received several comments on this RFI, which are summarized below:

Comment: In response to the question of whether IRFs would support utilizing EHRs as the mechanism of data collection and submission for IRF QRP measures, we received several supportive comments, citing the increased accuracy by relying ''on both microbiologic evidence of C. diff in stool and evidence of antimicrobial treatment using data derived from the electronic health record (EHR)'' and decreased provider burden associated with a digital measure. One of these commenters recommended CMS adopt the measure in larger acute care hospitals where use of EHRs is already more prevalent, prior to adopting it in IRFs.

However, commenters raised concerns about the cost associated with IRFs adopting EHR systems that are equipped to collect and exchange digital quality measure (dQM) data. They stated EHR adoption has been slower and less uniform than it was in acute care hospitals, due to the lack of incentive payments available to IRFs. They urged CMS to provide incentive payments to IRFs as they did for acute care hospitals through the Health Information Technology for Economic and Clinical Health (HITECH) Act prior to requiring IRFs' transition to dQMs. One of these commenters noted that IRFs could use those incentive payments to offset implementation costs, such as additional staff, licensing fees and new software and systems.

Commenters also supported the idea of a transition period between the current method of data submission and an electronic submission, and several commenters suggested a 2-year transition period. One commenter stated that some IRFs would need time to implement an EHR system while IRFs that already use EHRs would still need to make refinements to their system. Another commenter recommended that CMS launch a pilot for this measure and/or establish a process for manual data submission as a backup for a specified time before the digital measure is fully implemented.

One commenter indicated their interest in participating in a pilot or voluntary electronic submission of quality data. Other commenters stated they would be willing to participate in a pilot prior to implementation of a digital quality measure (dQM).

In response to the solicitation of comments about challenges IRFs anticipate in the adoption of the NHSN HA–CDI measure, we received one comment about the challenges posed by the adoption of new terminology to end users as well as the challenges associated with implementing new technology into IRF workflows. This commenters also pointed out that the RFI in the proposed rule noted that the Centers for Disease Control and Prevention (CDC) plans to enable reporting using the existing HL7 Clinical Document Architecture and potentially other formats, while continuing to support the current CDI measure until sufficient experience is achieved with the new measure, and

while they appreciate CDC's flexibility, they questioned the data integrity across all facilities when so many technology options are in use. Another commenter raised concerns about cyber security, and noted the potential security risk might not outweigh the time involved in manual submission.

Finally, several commenters did not support the idea of the NHSN HA–CDI measure for the IRF QRP, citing a low incidence rate in IRFs, and the lack of meaningful differences in provider performance.

Response: We appreciate the input provided by commenters. While we will not be responding to specific comments submitted in response to this RFI in this final rule, we intend to use this input to inform our future measure development efforts. One commenter questioned whether it would be worth the cost to IRFs to make the necessary changes to the EHR when incidence is low in IRF patients.

E. Overarching Principles for Measuring Equity and Healthcare Quality Disparities Across CMS Quality Programs—Request for Information

1. Solicitation of Public Comment

The goal of the request for information in section XI.E. of the proposed rule was to describe key principles and approaches that we would consider when advancing the use of quality measure development and stratification to address healthcare disparities and advance health equity across our programs.

We invited general comments on the principles and approaches described previously in this section of the rule, as well as additional thoughts about disparity measurement or stratification guidelines suitable for overarching consideration across CMS' QRP programs. Specifically, we invited comment on:

- Identification of Goals and Approaches for Measuring Healthcare Disparities and Using Measure Stratification Across CMS Quality Reporting Programs

++ The use of the within- and between-provider disparity methods in IRFs to present stratified measure results.

++ The use of decomposition approaches to explain possible causes of measure performance disparities.

++ Alternative methods to identify disparities and the drivers of disparities.

- Guiding Principles for Selecting and Prioritizing Measures for Disparity Reporting

++ Principles to consider for prioritization of health equity measures and measures for disparity reporting, including prioritizing stratification for validated clinical quality measures, those measures with established disparities in care, measures that have adequate sample size and representation among healthcare providers and outcomes, and measures of appropriate access and care.

- Principles for Social Risk Factor and Demographic Data Selection and Use

++ Principles to be considered for the selection of social risk factors and demographic data for use in collecting disparity data including the importance of expanding variables used in measure stratification to consider a wide range of social risk factors, demographic variables, and other markers of historic disadvantage. In the absence of patient-reported data we will consider use of administrative data, area-based indicators, and imputed variables as appropriate.

- Identification of Meaningful Performance Differences

++ Ways that meaningful difference in disparity results should be considered.

- Guiding Principles for Reporting Disparity Measures

++ Guiding principles for the use and application of the results of disparity measurement.

- Measures Related to Health Equity

++ The usefulness of a Health Equity Summary Score (HESS) for IRFs, both in terms of provider actionability to improve health equity, and in terms of whether this information would support Care Compare website users in making informed healthcare decisions.

++ The potential for a structural measure assessing an IRF's commitment to health equity, the specific domains that should be captured, and options for reporting this data in a manner that would minimize burden.

++ Options to collect facility-level information that could be used to support the calculation of a structural measure of health equity.

++ Other options for measures that address health equity.

We received several comments on the RFI for Overarching Principles for Measuring Equity and Healthcare Quality Disparities Across CMS Quality Programs. While we will not be responding to specific comments submitted in response to this RFI, the following is a summary of some comments received:

Comment: We received several comments on the structural measure for health equity. One commenter supported the concept of a structural quality measure of health equity and believed it would be a step that could lead to more complex measures, and noted that the Leapfrog Hospital Safety Grade program has an established framework that can be used for this measure, including a standardized set of questions for hospitals that capture demographic data elements. Other commenters opposed the measure and expressed that it may not provide useful or actionable data to differentiate IRFs on quality and equity for IRFs or consumers. One commenter noted that larger facilities may have more resources to invest in this area, and as such, perform better than smaller facilities on this type of measure. Another commenter did not support the measure, citing the Measure Application Partnership's Hospital Workgroup observation that ''evidence for a linkage between the measure and improved health outcomes had not been established'' and that ''a performance gap among hospitals for the measure's five structural elements (*i.e.,* to which attestation would be required) had not been demonstrated.'' Furthermore, they shared that many of the priorities in this structural measure are often already addressed by IRFs through initiatives to provide culturally competent and inclusive care and to meet existing accreditation requirements. Finally, two commenters did not support or oppose the measure and requested additional information on the measure definition and how it can be used to advance health equity.

We received three comments on performance disparity decomposition. Two commenters supported the idea of performance disparity decomposition and believed that it would provide valuable data for IRFs while minimizing burden. However, one commenter added a caveat stating that not all IRFs would have the statistical expertise or resources to implement this approach. One commenter opposed the idea, specifically the potential application of the Blinder-Oaxaca methodology.

We received several comments on the concept of the HESS. Some commenters supported the concept of the HESS and noted it would provide a comprehensive view of a patient's clinical, social, and behavioral risks. Despite expressing their support, one commenter noted that the development of the HESS presents several technical challenges, such as the need for a comprehensive standardized set of demographic data elements for each patient, an imputation method for missing data elements, and a method for accounting for small sample sizes within an IRF. A few commenters opposed the development of a HESS and stated that an aggregated quality score would not provide actionable

insights for IRFs and confuse consumers. Commenters favored more transparent and accessible methods to collect and measure health equity. Finally, a few commenters requested additional information before proceeding with the development of the HESS score, since the current HESS metric in Medicare Advantage needs to be modified significantly before being applicable to the IRF setting.

Commenters generally supported the combination of within- and between-hospital disparity methods and believed that these complementary approaches could provide comprehensive information to facilities. Commenters in support of the provision requested that the data remain confidential while IRFs become familiar with the data and that CMS consider risk adjustment for IRF characteristics for between-hospital results. One commenter recommended CMS evaluate whether this approach is appropriate for all measures, and especially cautioned against using between-hospital disparity methods for any potential patient experience measures. The commenter stated that ''by benchmarking subgroups and making comparisons of those subgroups in patient experience data, it can lead to the expectation that it is 'normal' for certain subgroups to report less favorable patient experiences.'' The commenter instead encouraged CMS to compute benchmarks for the entire patient population and to introduce incentives for reducing the gap in performance between groups.

Commenters generally supported the addition of data elements like race, ethnicity, language preference, sexual orientation, gender, stable housing, food insecurity, socioeconomic status, veteran status, and other social determinants of health. One commenter encouraged CMS to improve measures of patient social risk and prioritize identifying social risk factors that should be accounted for in a quality payment program using an evidence-based approach. A few commenters emphasized the importance of disability status and recommended CMS define, collect standardized data for, and measure disability status, particularly for IRF care access and outcomes.

Commenters generally suggested prioritizing the development of disparity analysis and reporting before determining the best approach to identify meaningful differences in IRF performance. One commenter suggested grouping IRFs with similar patients to determine rewards and penalties based on comparison with an IRF's peers. Commenters generally opposed a ranked ordering and percentile approach to order IRFs based on their performance because they believed variations in patient populations and IRFs would create challenges in accurately comparing IRFs against each other.

Several commenters encouraged CMS to share stratified results of existing measures in confidential feedback reports. Furthermore, one commenter encouraged CMS to share these results for topped-out measures that were previously removed from programs to determine if these data reveal meaningful disparities in performance when stratified. Commenters also encouraged CMS to establish high standards for stratification and reliability. Relatedly, some suggested strategies include establishing a minimum case count for IRFs or pooling data across years. Other commenters proposed the inclusion of confidence intervals, cut points based on standard deviations, or clustering algorithms to help IRFs contextualize their performance.

Response: Public input is very valuable to the continuing development of CMS' health equity quality measurement efforts and broader commitment to health equity; a key pillar of our strategic vision, as well as a core agency function. Thus, we will continue to take all concerns, comments, and suggestions into account for future development and expansion of policies to advance health equity across the IRF QRP, including by supporting IRFs in their efforts to ensure equity for all of their patients, and to identify opportunities for improvements in health outcomes.

F. Proposals Relating to the Form, Manner, and Timing of Data Submission Under the IRF QRP

1. Background

We refer readers to the regulatory text at § 412.634(b) for information regarding the current policies for reporting IRF QRP data.

2. Proposal To Require Quality Data Reporting on all IRF Patients Beginning With the FY 2025 IRF QRP

a. Background

We have received public input for the past 10 years on the need to standardize measurement data collection across all payers in the PAC settings. For example, as part of their recommendations on Coordination Strategy for Post-Acute Care and Long-term Care Performance Measurement,[14] the National Quality Forum (NQF)-convened Measures Application Partnership (MAP) defined priorities and core measure concepts for PAC, including IRFs, in order to improve care coordination for patients. The MAP concluded that standardized measurement data collection is needed to support the flow of information and data among PAC providers and recommended CMS collect data across all payers. Since the implementation of the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) and the development of the statutorily required quality measures, we have also received public input suggesting that the quality measures used in the IRF QRP should be calculated using data collected from all IRF patients, regardless of the patients' payer. This input has been provided to us through different mechanisms, including comments requested about quality measure development. Specifically, in response to the call for public comment on quality measures to satisfy the IMPACT Act domain of Transfer of Health Information and Care Preferences When an Individual Transitions,[15] the majority of comments expressed concern over the non-standardized populations across the PAC setting and urged CMS to standardize the patient populations. One commenter stated having an all-payer policy in place in some, but not all PAC settings, limits the ability of providers and consumers to interpret the information. In the FY 2018 IRF PPS proposed rule (82 FR 20740), we sought input on expanding the quality measures to include all patients regardless of payer status. In response to the Request for Information (RFI), several commenters supported expanding the IRF QRP to include all patients regardless of payer. The Medicare Payment Advisory Commission (MedPAC) was supportive of the effort to ensure quality care for all patients, but sensitive to the issue of additional burden, while another commenter questioned whether the use of additional data would outweigh the burden of additional reporting. Other commenters were also supportive, noting that it would not be overly burdensome since most of their organizations' members already complete the IRF–PAI on all patients, regardless of payer status. One

[14] National Quality Forum. MAP Coordination Strategy for Post-Acute Care and Long-Term Care Performance Measurement. February 2012. Available at *https://www.qualityforum.org/Publications/2012/02/MAP_Coordination_Strategy_for_Post-Acute_Care_and_Long-Term_Care_Performance_Measurement.aspx.* Accessed January 31, 2022.

[15] *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/MMS/MMS-Blueprint.* Accessed January 31, 2022.

commenter supported the idea since collecting information on only a subset of patients could be interpreted as having provided different levels of care based on the payer.

In the FY 2020 IRF PPS proposed rule (84 FR 17326 to 17327), CMS proposed to expand IRF quality data reporting on all patients regardless of payer for purposes of the IRF QRP. In the FY 2020 IRF PPS final rule (84 FR 39161 through 39163), we decided not to finalize the proposal at the time, but rather use the comments to help inform a future all-payer proposal.

b. Support for Expanding Quality Reporting Data on all IRF Patients

Currently, IRF–PAI assessment data are collected on patients admitted under the Medicare Part A fee-for-service (FFS) and Medicare Part C benefits.[16]

The concept of requiring quality data reporting on all patients regardless of payer is not new; as part of the Long-Term Care Hospital (LTCH) quality reporting program, CMS currently collects quality data on all patients regardless of payer. CMS also collects quality data on all Hospice patients for the Hospice Quality Reporting Program (HQRP) regardless of payer. Eligible clinicians participating in the Merit-based Incentive Payment System (MIPS) who submit quality measure data on Qualified Clinical Data Registry (QCDR) measures, MIPS clinical quality measures (CQMs) or electronic clinical quality measures (eCQMs) must submit such data on a specified percentage of patients regardless of payer. Collecting such quality data on all patients in the IRF setting would provide the most robust and accurate representation of quality in the IRFs since CMS does not have access to other payer claims. Additionally, the data would promote higher quality and more efficient healthcare for Medicare beneficiaries and all patients through the exchange of information and longitudinal analysis of that data.

We believe that data reporting on standardized patient assessment data elements using the IRF–PAI should include all IRF patients for the same reasons we believe that collecting data on Medicare beneficiaries for the IRF QRP's quality measures is important: to achieve equity in healthcare outcomes for our beneficiaries by supporting providers in quality improvement activities, enabling them to make more informed decisions, and promoting provider accountability for healthcare disparities.[17] [18] We believe that we have authority to collect all-payer data for the IRF QRP under section 1886(j)(7) of the Act. We believe it is necessary to obtain admission and discharge assessment information on all patients admitted to IRFs in order to obtain full and complete data regarding the quality of care provided by the IRF to the Medicare patients receiving care in that facility. We note, however, that these data would not be used by CMS for purposes of updating the IRF PPS payment rates annually. In addition, we note that section 1886(j)(7) of the Act does not limit the Secretary to collecting data only on individuals with Medicare, and therefore this proposal is not inconsistent with CMS' statutory obligations.

We take the appropriate access to care in IRFs very seriously, and routinely monitor the QRP measures' performance, including performance gaps across IRFs. We intend to monitor closely whether any proposed change to the IRF QRP has unintended consequences on access to care for high risk patients. Should we find any unintended consequences, we will take appropriate steps to address these issues in future rulemaking. We wish to clarify that although CMS stated as part of the proposed rule that we believed that expanding the reporting of quality measures to include all patients, regardless of payer, would ensure that the IRF QRP makes publicly available information regarding the quality of services furnished to the IRF population as a whole CMS did not make any proposals for policies related to publicly reporting IRF QRP data collected on non-Medicare patients as part of the proposed rule, and therefore is not finalizing any such policies as part of this rule.

We also take the privacy and security of protected health information (PHI) very seriously. Our systems conform to all applicable Federal laws and regulations as well as Federal government, Department of Health & Human Services (HHS), and CMS policies and standards as they relate to information security and data privacy. The system limits data access to authorized users and monitors such users to ensure against unauthorized data access or disclosures.

While we appreciate that collecting quality data on all patients regardless of payer may create additional burden, we also note that this burden may be partially offset by eliminating the effort to separate out Medicare beneficiaries from other patients, which is also burdensome. We also acknowledge the concerns raised by some stakeholders in the past with respect to the administrative challenges of implementing all payer data collection and the need to account for the burden related to the proposal. In section XII.B. of the proposed rule, we provided an estimate of additional burden related to the proposal.

c. Proposal To Require Quality Data Reporting on all IRF Patients

In order to facilitate and ensure that high-quality care is delivered to all patients, including Medicare beneficiaries, in the IRF setting, we proposed to require that the IRF–PAI assessment be collected on each patient receiving care in an IRF, regardless of payer, beginning with the FY 2025 IRF QRP. If finalized as proposed, IRFs would be required to report these data with respect to admission and discharge for all patients, regardless of payer, discharged between October 1, 2023 and December 31, 2023. These data would be used (in addition to the data collected January 1, 2023 through September 30, 2023) to calculate an IRF's data completion threshold for the FY 2025 IRF QRP.

In the proposed rule we noted that if finalized as proposed, we would revise the IRF–PAI in order for IRFs to submit data pursuant to the finalized policy. A new item would replace the current item identifying payment source on the IRF–PAI admission assessment to collect additional payer(s) information. The collection of this item would align with the LTCH setting. A draft IRF PAI containing this new item would be available at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting.* We would notify stakeholders when the draft IRF PAI is available.

We invited public comments on this proposal.

The following is a summary of the public comments received on the proposal to collect IRF quality data on all patients regardless of payer and our responses:

Comment: We received support from several commenters on our proposal to require quality data reporting on all IRF patients, regardless of payer, beginning

[16] In the FY 2010 IRF PPS final rule (74 FR 39798 through 39800), CMS revised the regulation text in §§ 412.604, 412.606, 412.610, 412.614, and 412.618 to require that all IRFs submit IRF–PAI data on all of their Medicare Part C patients.

[17] *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/Downloads/CMS-Quality-Strategy.pdf.*

[18] Report to Congress: Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014 Strategic Plan for Accessing Race and Ethnicity Data. January 5, 2017. Available at *https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Research-Reports-2017-Report-to-Congress-IMPACT-ACT-of-2014.pdf.*

with the FY 2025 IRF QRP. Commenters expressed support for CMS's intention to standardize data collection for all patients. Relatedly, one commenter noted that collecting assessment data on subsets of populations could be interpreted as providing different levels of care. Other commenters appreciated that collecting all-payer data will allow IRF QRP measures to include all patients regardless of payer status to ensure representation of the quality of services provided on the population as a whole, rather than a subset limited to Medicare, and one commenter agreed with CMS that the inclusion of all-payer data will more accurately reflect the quality of care provided to IRF patients. Another commenter highlighted that by aligning data collection across payer types, it will allow health equity issues to be examined consistently for all patients, regardless of payer. Regarding burden, MedPAC noted that ''since it has long been common practice for providers to collect IRF–PAI data on all patients, expanding IRF quality measures to include all patients should not be particularly onerous and may even relieve burden, to the extent that providers must now separate out assessment data for Medicare patients from that of all patients.''

Response: We thank the commenters for their support. We take the appropriate access to care in IRFs seriously, and routinely monitor the QRP measures' performance, including performance gaps across IRFs. Expanding the reporting of quality measures to include all patients, regardless of payer, will further inform our quality work at CMS, allowing for the continued improvement in quality of care.

In addition, there were many providers who expressed their understanding of CMS' rationale and supported the concept of collecting quality data on all IRF patients regardless of payer, but raised various concerns about the implementation of the proposal. We will address each of these comments here.

Comment: Several commenters stated that CMS did not provide enough information on how the data collection for all IRF patients, regardless of payer, would be implemented and operationalized. Commenters questioned how the IRF–PAI data would be validated for determining reporting compliance when CMS does not have access to claims from other payers. Given the financial penalty IRFs face for non-compliance with the QRP, they requested more detail on how this would be handled.

Response: IRFs would be required to collect and submit the QRP data for all patients in the same manner and method they are accustomed to for patients with Medicare and Medicare Advantage. IRFs will use the IRF–PAI assessment instrument and submit the data through iQIES. The IRF QRP requires that the data be submitted and accepted by CMS according to the established submission timelines. An IRF–PAI for each patient discharged from the IRF must be submitted no later than 11:59 p.m. the day of the quarterly submission deadline. IRFs have generally 4.5 months after the end of a quarter to submit their data. More information about the data submission deadlines can be found on the IRF Data Submission Deadlines web page at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Data-Submission-Deadlines.* For the purposes of calculating compliance, IRF–PAI data submissions for the calendar year are reviewed against the requirements of the IRF QRP. Of the assessments received, 95 percent must contain 100 percent of the data required to calculate the IRF QRP quality measures. The IRF–PAI compliance percentage is calculated by dividing the numerator (the number of IRF–PAI assessments with 100 percent of the required IRF–PAI data elements) by the denominator (the number of assessments submitted successfully before the submission deadlines). Each year, CMS issues notices to providers found non-compliant. This methodology is not dependent on Medicare claims to determine AIF compliance.

We would remind providers that IRFs are currently required to meet the IRF QRP requirements as authorized by section 1886(j)(7) of the Act, and it applies to freestanding IRFs, as well as inpatient rehabilitation units of hospitals or Critical Access Hospitals (CAHs) paid by Medicare under the IRF PPS. Under the IRF QRP, the Secretary must reduce by 2 percentage points the annual increase factor for discharges occurring during a fiscal year for any IRF that does not submit data in accordance with the IRF QRP requirements established by the Secretary.

Comment: Several commenters questioned how CMS would align rules between stays covered by private insurers and stays covered by Medicare given that private insurers may not recognize interrupted stays.

Response: CMS does not expect to align rules with private insurers, since the completion of the IRF–PAI is for purposes of meeting the IRF QRP data collection requirements. An interrupted stay is defined as a stay by a patient who is discharged from the IRF and returns to the same IRF within 3 consecutive calendar days. CMS treats this situation as one combined IRF stay, and the IRF would not need to complete another IRF–PAI when the patient returns to the IRF after the interruption. However, it is expected that the IRF would update the information in the patient's medical record [19] to make sure that it is current (that is, update the patient's condition, comorbidities, rehabilitation goals, plan of care, etc.). If the patient returns to the IRF in 4 or more consecutive days (that is, it is not considered an interrupted stay), then all of the required documentation must be completed as with any ''new'' IRF patient. Therefore, IRFs would follow this same guidance for interrupted stays, regardless of the patient's payer.

Comment: A few commenters stated that CMS did not provide enough detail in the proposed rule about how they would account for ''certain patient populations.'' They used the example of IRFs that treat pediatric patients, and do not believe the IRF–PAI is appropriate for pediatric patients. The commenters expressed concern that these IRFs would be ''faced with conducting an inappropriate IRF–PAI on the patient or running the risk of not meeting the data completion threshold.''

Response: We interpret the commenters' concerns to be directed at the standardized patient assessment data elements and Transfer of Health items that will be collected on/after October 1, 2022. Specifically, we interpret the commenters to be concerned that they will not be able to complete these new items because they do not believe the IRF–PAI is appropriate for pediatric patients, and as a result, they will not be able to meet the 95 percent data completion threshold.

We disagree with the commenters who believe the IRF–PAI is inappropriate for persons treated in an IRF who are younger than the usual Medicare FFS or Medicare Advantage patients. CMS believes these items are clinically relevant for younger patients. They were selected based on their overall clinical relevance to PAC providers, including IRFs, their ability to facilitate care coordination during transitions, their ability to capture medical complexity and risk factors, and their scientific reliability and validity. Specific examples include the hearing, speech, and vision items; the

[19] § 482.24 Condition of Participation: Medical Record Services.

Brief Interview for Mental Status (BIMS); the Confusion Assessment Method (CAM) and Patient Health Questionnaires; the Pain interference items; special services, treatments, and interventions; and SDOH. The remainder of this response discusses the appropriateness of each of these item categories in the pediatric populations in more detail.

The intent of the hearing, speech, and vision items is to document the patient's ability to hear (with assistive devices, if they are used), understand, and communicate with others, and the patient's ability to see objects nearby in their environment. Early detection and prompt management are essential for the development of normal language and psychosocial functioning, as well as to identify potentially reversible causes or other underlying problems.[20] Sensory limitations can lead to confusion in new settings, increase isolation, contribute to mood disorders, and impede accurate assessment of other medical conditions. Failure to appropriately assess, accommodate, and treat these conditions increases the likelihood that younger patients will require more intensive and prolonged treatment. Individualized assessment with accurate screening tools and follow-up evaluations are essential to determining which patients need hearing- or vision-specific medical attention or assistive devices and accommodations, including auxiliary aids and/or services, and to ensure that person-directed care plans are developed to accommodate a patient's needs.

The BIMS was developed to be a brief, objective screening tool, with a focus on learning and memory. As a brief screener, the BIMS is intended to be a relatively quick and easy-to-score assessment that could identify cognitively impaired patients, as well as those who may be at risk for cognitive decline and require further assessment. A number of underlying chronic conditions,[21] including traumatic brain injury, side effects of medication, metabolic and/or endocrine imbalances,[22] delirium, and depression,[23] can affect cognitive function and mental status in pediatric and adolescent IRF patient populations. In alignment with our Meaningful Measures Initiative, accurate assessment of cognitive function and mental status of patients and in PAC is expected to make care safer by reducing harm caused in the delivery of care; promote effective prevention and treatment of disease; strengthen person and family engagement as partners in their care; and promote effective communication and coordination of care.[24] For example, standardized assessment of cognitive function and mental status of younger patients in PAC will support establishing a baseline for identifying changes in cognitive function and mental status (for example, an adverse drug reaction), anticipating the patient's ability to understand and participate in treatments during a PAC stay, ensuring patient safety (for example, risk of falls), and identifying appropriate support needs at the time of discharge or transfer. We also acknowledge that further cognitive tests may be required based on a patient's age and conditions.

Likewise, the CAM and Patient Health Questionnaire-2 to 9 (PHQ–2 to 9) have value as universal assessments to identify patients in need of further clinical evaluation. The prevalence of depression is increasing among youth in the United States. The 2005 to 2014 National Surveys on Drug Use and Health, which included 172,495 adolescents 12 to 17 years of age, found that the percentage of adolescents who experienced one or more major depressive episodes in the previous 12 months increased from 9 percent in 2005 to 11 percent in 2014.[25] In 2020, an estimated 4.1 million or 17.0 percent of the U.S. population aged 12 to 17 had at least one major depressive episode, and 2.9 million of these had at least one major depressive episode with severe impairment. The prevalence was highest among adolescents reporting two or more races (29.9%). However, among adolescents with a major depressive episode with severe impairment, only about 46.9 percent received treatment.[26] Treatment rates have changed little since 2005, raising concern that adolescents are not receiving needed care for depression.[27] The PHQ–2 mood interview focuses on the two cardinal symptoms of depression, and the longer PHQ–9 mood interview assesses presence and frequency of nine signs and symptoms of depression. A study of the PHQ–9 for detecting major depression among adolescents found it to be an effective choice for providers.[28] Assessments of depression help PAC providers better understand the needs of their pediatric and adolescent patients by: prompting further evaluation after establishing a diagnosis of depression; elucidating the patient's readiness and/or ability to participate in therapies for conditions other than depression during their stay; and identifying appropriate ongoing treatment and support needs at the time of discharge.

Pain interference items (Pain Effect on Sleep, Pain Interference with Therapy Activities, and Pain Interference with Day-to-Day Activities) are also appropriate for younger patients. Pain is not a surprising symptom in PAC patients and residents, where healing, recovery, and rehabilitation often require regaining mobility and other functions after an acute event. However, in the pediatric population, pain is frequently under-recognized and inadequately treated.[29] [30] In acknowledgement of the opioid crisis, these items were carefully considered, and stakeholder comment was specifically sought prior to adopting these items in light of those concerns.

[20] Dimitrov, L., & Gossman, W. (2022). Pediatric Hearing Loss. In: StatPearls. StatPearls Publishing, Treasure Island (FL. PMID: 30855869).

[21] Compas, B., Jaser, S., Reeslund, K., Patel, N., & Yarboi, J. (2017). Neurocognitive deficits in children with chronic health conditions. *The American Psychologist,* 72(4), 326–338. *https://doi.org/10.1037/amp0000042.*

[22] Romani, C. (2018). Cognitive impairments in inherited metabolic diseases: Promises and challenges. *Cognitive Neuropsychology,* 35(3–4), 113–119, *https://doi.org/10.1080/02643294.2017.1417249.*

[23] Selph, S.S., & McDonagh, M.S. (2019). Depression in Children and Adolescents: Evaluation and Treatment. *American Family Physician,* 100(10), 609–617. Available at *https://www.aafp.org/dam/brand/aafp/pubs/afp/issues/2019/1115/p609.pdf.* Accessed 6/2/2022.

[24] American Psychological Association. Clinical Practice Guideline for the Treatment of Depression. (2019). Available at *https://apa.org/depression-guideline/resources/children-adolescents.*

[25] National Institute of Mental Health. Major depression. Available at *https://www.nimh.nih.gov/health/statistics/major-depression.shtml#part_155031.*

[26] National Institute of Mental Health. Major depression. Available at *https://www.nimh.nih.gov/health/statistics/major-depression.shtml#part_155031.*

[27] Selph, S.S., & McDonagh, M.S. (2019). Depression in Children and Adolescents: Evaluation and Treatment. *American Family Physician,* 100(10), 609–617. *https://www.aafp.org/dam/brand/aafp/pubs/afp/issues/2019/1115/p609.pdf.* Accessed 6/2/2022.

[28] Richardson, L.P., McCauley, E., Grossman, D.C., McCarty, C.A., Richards, J., Russo, J.E., Rockhill, C., & Katon, W. (2010). Evaluation of the Patient Health Questionnaire-9 Item for detecting major depression among adolescents. *Pediatrics,* 126(6), 1117–1123. *https://doi.org/10.1542/peds.2010–0852.*

[29] Gai, N., Naser, B., Hanley, J., Peliowski, A., Hayes, J., & Aoyama, K. (2020). A practical guide to acute pain management in children. *Journal of Anesthesia,.;*34(3), 421–433. *https://doi.org/10.1007/s00540-020-02767-x. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7256029/* Accessed 6/3/2022.

[30] Hauer, J., Houtrow, A.J.; & Section on Hospice and Palliative Medicine, Council on Children with Disabilities. (2017). Pain Assessment and Treatment in Children With Significant Impairment of the Central Nervous System. *Pediatrics,* 139(6), e20171002. *https://doi.org/10.1542/peds.2017-1002. https://pubmed.ncbi.nlm.nih.gov/28562301/.* Accessed 6/3/2022.

Opioids are frequently prescribed to children and adolescents after surgery or major injury. Children are not immune to opioid use disorders,[31] and prescription opioid misuse is associated with high-risk behavior in youth, so it is important for healthcare personnel caring for children to recognize these risks and maximize nonopioid regimens, in addition to educating families.[32] In pain management, a critical part of providing comprehensive care is performance of a thorough initial evaluation, including assessment of both the medical and any biopsychosocial factors causing or contributing to the pain, with a treatment plan to address the causes of pain and to manage pain that persists over time. Using a standardized assessment of pain interference with sleep, function, and activities of daily living (ADLs) is an important first step toward appropriate pain management in PAC settings for patients of all ages.

Other items collected on the IRF–PAI version 4.0 include special services, treatments, and interventions performed in the IRF. Individually or collectively, these items can have a major effect on an individual's health status, self-image, and quality of life. The assessment of these special services, treatments, and interventions in IRFs is important to ensure the continuing appropriateness of care for the pediatric or adolescent patients receiving them, and to support care transitions from one PAC provider to another, to an acute care hospital, or to discharge. For example, standardized assessment of special services, treatments, and interventions used in the IRF can promote the pediatric or adolescent patient's safety through appropriate care planning (for example, mitigating risks such as infection or pulmonary embolism associated with central intravenous access), and identifying life-sustaining treatments that must be continued, such as mechanical ventilation, dialysis, suctioning, and chemotherapy, at the time of discharge or transfer.

Social determinants of health affect nearly everyone in one way or another, and have a major impact on people's health, well-being, and quality of life.[33] These seven items (race, ethnicity, preferred language, interpreter services, health literacy, transportation, and social isolation) were finalized for collection under our authority under section 2(d)(2)(B) of the IMPACT Act, as well as section 1899B(b)(1)(B)(vi) of the Act. We maintain that these data elements will inform provider understanding of individual patient risk factors and treatment preferences, facilitate coordinated care and care planning, and improve patient outcomes. Adolescents and young adults are not immune to health disparities.[34] [35] As stated in section X.F.2.b. of the proposed rule, we believe that data reporting on standardized patient assessment data elements using the IRF–PAI should include all IRF patients (including pediatric and adolescent patients) for the same reasons we believe that collecting data on Medicare beneficiaries for the IRF QRP's quality measures is important: To achieve equity in healthcare outcomes for our beneficiaries by supporting providers in quality improvement activities, enabling them to make more informed decisions, and promoting provider accountability for healthcare disparities.[36] [37]

For each of the items, the IRF–PAI guidance manual provides instructions for how to code the items if the item does not apply to the patient or the patient is unable to respond. Selecting these responses when applicable counts toward the data completion threshold. Additionally, the assessments of the special services, treatments, and interventions with multiple responses are formatted as a ''check all that apply'' format. Therefore, when treatments do not apply, the assessor need only check one row for ''None of the Above,'' and the data completion requirement is met.

Comment: Several commenters noted that CMS did not provide information on how the data collected under this policy would be used. They stated CMS would need to carefully consider how any data from non-Medicare sources is publicly reported on Care Compare, since commercial coverage policies are different and may limit patient access to IRF services. The commenters stressed the importance of appropriately risk-adjusting for those differences. These commenters urged CMS to engage stakeholders in developing these risk adjustment methods. One commenter supported having more aggregate representative data for the Care Compare website, since they believe it will more accurately reflect the work IRFs provide. One commenter provided several suggestions such as providing confidential results to IRFs and stratifying results by payer class.

Response: We interpret the commenters to be referring to how the data collected would be used for public reporting and specifically those activities associated with public reporting, such as risk adjustment for publicly reported measures and the confidential facility-level quality measure reports IRFs receive prior to publishing results on Care Compare. We clarify for commenters that CMS did not make any proposals for policies related to publicly reporting IRF QRP data collected on non-Medicare patients. To the extent that CMS is interested in such policies in the future, these policies would be proposed as part of future notice and comment rulemaking.

Comment: Two commenters disagreed with our estimated cost of implementing a policy to collect IRF QRP data on all patients regardless of payer. One commenter said that the expected additional 237 IRF–PAI assessments per year was a significant underestimation for larger urban IRFs. Another commenter believes CMS excluded several healthcare personnel who are contributors to the IRF–PAI collection in addition to disregarding crucial administrative complexities associated with IRF–PAI submission, which in turn underestimated the overall cost and burden. This commenter questioned how CMS arrived at its estimate and concluded that CMS may have based its estimate on the current version of the IRF–PAI since the personnel types we included in the burden estimate were Registered Nurses, Licensed Vocational Nurses, Respiratory Therapists, Speech and Language Pathologists,

[31] Groenewald, C.B. Opioid-prescribing Patterns for Pediatric Patients in the United States. (2019). Clinical Journal of Pain, 35(6), 515–520. *https://doi.org/10.1097/AJP.0000000000000707. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6782052/#:~:text=Opioid%20misuse%20is%20also%20a,having%20opioid%20use%20disorder19.* Accessed 6/3/2022.

[32] Kelley-Quon, L.I., Kirkpatrick, M.G., Ricca, R.L., et al. (2021). Guidelines for Opioid Prescribing in Children and Adolescents After Surgery: An Expert Panel Opinion. *JAMA Surgery,* 156(1), 76–90. *https://doi.org/10.1001/jamasurg.2020.5045. https://jamanetwork.com/journals/jamasurgery/article-abstract/2772855.* Accessed 6/3/2022.

[33] US Department of Health and Human Services. Office of Disease Prevention and Health Promotion. Healthy People 2030. Available at *https://health.gov/healthypeople/priority-areas/social-determinants-health.*

[34] Tebb, K.P., Pica, G., Twietmeyer, L., Diaz, A., & Brindis, C.D. (2018). Innovative Approaches to Address Social Determinants of Health Among Adolescents and Young Adults. *Health Equity,* 2(1), 321–328. *https://doi.org/10.1089/heq.2018.0011. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6238651/.* Accessed 6/3/2022.

[35] Viner, R.M., Ozer, E.M., Denny, S., Marmot, M., Resnick, M., Fatusi, A., & Currie, C. (2012). Adolescence and the social determinants of health. *Lancet,* 379(9826), 1641–1652. *https://doi.org/10.1016/S0140-6736(12)60149-4.*

[36] *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/Downloads/CMS-Quality-Strategy.pdf.*

[37] Report to Congress: Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014 Strategic Plan for Accessing Race and Ethnicity Data. January 5, 2017. Available at *https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Research-Reports-2017-Report-to-Congress-IMPACT-ACT-of-2014.pdf.*

Occupational Therapists, Physical Therapists, and Psychologists. This commenter stated that they believe CMS should have included pharmacists and physicians in its cost estimate in addition to increasing the percentage of time physical therapists (PTs) and occupational therapists (OTs) are involved in the process. They state that PTs and OTs are substantially more involved in both the clinical process and as PPS coordinators than is reflected in CMS' burden estimate. This commenter described a two-stage process to completing the IRF–PAI that includes: (1) clinicians providing services and documenting the relevant data; and (2) the PPS coordinator compiling, verifying, and clarifying the data in preparation for submission. They point out that the PPS coordinator may spend the entire 1.8 hours completing the IRF–PAI, but that does not take into account the assessment of the patient and the interdisciplinary communication that goes on in the weekly interdisciplinary team conferences.

Response: We disagree with the commenters about our burden estimate. We acknowledge that some IRFs will incur a higher cost than was estimated due to their size and volume of admissions. We also acknowledge that some IRFs will incur a lower cost. We do agree that the additional cost will be dependent on the IRF's current volume of non-Medicare and non-Medicare Advantage patients.

We also want to point out that the estimated burden included in section XI.B. of the FY 2023 IRF PPS proposed rule reflects the estimated burden associated with collecting the IRF–PAI data on patients associated with this proposal: that is, expanding data collection from Medicare FFS and Medicare Advantage patients to all patients receiving IRF services, regardless of payer. It was not an estimate of burden associated with the transition from the IRF–PAI version 3.0 to the IRF–PAI version 4.0 (that is, the collection of new data elements) since this burden was accounted for in the FY 2020 IRF PPS proposed and final rules (84 FR 17333 and 84 FR 39166).

The 1.8 hours per IRF–PAI is based on past IRF burden calculations and represents the time it takes to encode the IRF–PAI. As the commenter pointed out in their example, after the patient assessment is completed, the IRF–PAI is coded with the information and submitted to iQIES, and it is these steps (after the patient assessment) that the estimated burden and cost captures. Finally, as we stated in section XI.B. of the proposed rule, our assumptions for staff type were based on the categories generally necessary to perform an assessment, and subsequently encode it, which is consistent with past collection of information estimates.[38] While we acknowledge that some IRFs may use PTs and OTs more than others, our estimates are based on the categories of personnel necessary to complete the IRF–PAI.

Comment: A few commenters opposed the proposal because they stated that CMS did not provide information in the proposal to address their concerns raised in previous years. Specifically, they stated it was not reasonable to compare IRFs and LTCHs since expanding data collection for non-Medicare patients is a significantly larger undertaking for IRFs due to the fact that the volume of assessments is much higher in IRFs than LTCHs. Commenters also disagreed with the comparison to Hospices since their assessment is smaller than the current version of the IRF–PAI. One commenter called the proposal an ''unfunded mandate'' while another referred to it as ''regulatory overreach.''

Response: We clarify that when CMS referred to the LTCH and Hospice QRP programs in the proposed rule, we were not implying that the volume of assessments would be similar. We acknowledge that there are more IRFs than LTCHs in the U.S. and that an IRF generally has a higher number of patients than an LTCH. It is also true that Hospices have a higher number of patient stays annually than IRFs (in 2020, more than 1.7 million Medicare beneficiaries received hospice services compared to 379,000 IRF stays).[39] The intent in referring to the LTCH QRP was to provide an example of a CMS program that currently collects QRP data on all patients, regardless of payer.

As we have stated before, we appreciate that collecting quality data on all patients regardless of payer may create additional burden. We also note that this burden may be partially offset by eliminating the effort to separate out Medicare beneficiaries from other patients, which is also burdensome. Moreover, section 2(d)(2)(B) of the IMPACT Act requires the Secretary to collect or otherwise obtain access to the data necessary to carry out the provisions of paragraph (2) of section 2(d) of the IMPACT Act through both new and existing data sources. Accessing standardized data relating to the standardized data elements on a national level is necessary to permit CMS to conduct periodic analyses; to assess appropriate adjustments to quality measures, resource use measures, and other measures; and to assess and implement appropriate adjustments to Medicare payments based on those measures. Collecting the data as proposed will provide the basis for our periodic analyses of the relationship between an individual's health status and other factors and quality, resource use, and other measures, as required by section 2(d)(2) of the IMPACT Act, and to assess appropriate adjustments.

Comment: Two commenters raised concerns that if finalized, the proposal to collect IRF QRP data on all patients, regardless of payer, would take time away from the patient care process. One of these commenters opposes the collection of patient data from patients who have no connection to the Medicare program.

Response: We disagree that this policy, if finalized, would take time away from patient care. The items collected on the IRF–PAI, including vision, hearing, cognition, pain interference, functional status, and special services, are all important pieces of information to developing and administering a comprehensive plan of care. Rather than taking time away from patient care, providers will be documenting information they are likely already collecting through the course of providing care to the patients. We received support from IRFs to our RFI in the FY 2018 IRF PPS proposed rule, as well as our proposal in the FY 2020 IRF PPS proposed rule (the FY 2020 proposal was not subsequently finalized). Many commenters at that time and in response to this proposal indicated they are already collecting IRF–PAI data on all patients, regardless of payer. Other commenters have told us that they already collect many of the SDOH items included within the IRF–PAI version 4.0. The Transfer of Health Information items represent processes IRFs are likely already doing, since freestanding IRFs or IRF units within larger hospitals that participate in Medicare must arrange for a patient's discharge plan which likely includes providing a legible, complete, reconciled medication list in order to be in compliance with hospital Conditions of Participation at § 482.43.

We also disagree that the data collected under this proposal would have no connection to the Medicare program. As we stated in the proposed rule, expanding the collection of data to all patients, regardless of payer, would

[38] FY 2016 IRF PPS proposed rule (80 FR 23390).

[39] MedPAC Report to the Congress: Medicare Payment Policy. March 2022. Available at *https://www.medpac.gov/document/march-2022-report-to-the-congress-medicare-payment-policy/*. Accessed June 6, 2022.

ensure that CMS has full and complete data in order to assess the relative quality of care provided by IRFs to all patients, and to better evaluate the quality of care received by Medicare patients, including whether disparities appear to exist. We believe collecting such quality data on all patients in the IRF setting would provide the most robust and accurate representation of quality in the IRFs.

Comment: One commenter stated that the proposal provides no benefit to patient care and instead would create different patient populations for claims-based measures and assessment-based measures, creating more confusion in the data publicly reported.

Response: We acknowledge that claims-based measures and assessment-based measures would have different patient populations represented by the measure denominators. However, currently that issue exists because IRF claims-based measures only reflect Medicare FFS patients while IRF assessment-based measures reflect Medicare FFS and Medicare Advantage patients. We believe that if this proposal is finalized, it will make the assessment-based measures more robust and represent the IRF population as a whole, rather than limiting it to only those patients with Medicare FFS or Medicare Advantage benefits. CMS did not make any proposals for policies related to publicly reporting IRF QRP data collected on non-Medicare patients. To the extent that CMS is interested in such policies in the future, these policies would be proposed as a part of future notice and comment rulemaking.

Comment: One commenter opposes the collection of data on all patients, regardless of payer, because not all the information required by CMS is utilized for the IRF QRP quality measures and/or public reporting. Another commenter referred to a MedPAC report that indicated Medicare FFS patients represent 54 percent of IRF discharges. This commenter stated that if you factor in Medicare Advantage patients, it would increase the total percentage of their patient population and mean that ''many IRFs are already submitting IRF–PAIs on most of their patients.'' They also point out that in IRFs that have very similar section GG functional assessment average numeric change from admission to discharge in their Medicare and non-Medicare patients, there is no value in submitting non-Medicare patients' IRF–PAIs to Medicare. Instead, they suggest requiring only the items on the IRF–PAI that are required to generate a case mix group (CMG), length of stay, discharge destination, and GG change to be calculated.

Response: The IRF QRP requires the collection of certain standardized patient assessment data elements. These items have gone through extensive research, technical expert review, and public comment. The proposal for collecting the IRF–PAI data on all patients, regardless of payer, is specific to the data elements specified for the QRP and can be found on the IRF QRP Measures Information web page at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting/IRF-Quality-Reporting-Program-Measures-Information.*

With regard to the comment about how most IRFs are already submitting IRF–PAI assessments on most of their patients or that if an IRF has similar section GG functional assessment average numeric change scores in their Medicare and non-Medicare patients, then there is no value in the proposal, CMS disagrees. The functional outcome measures calculated using section GG are not the only IRF QRP assessment-based measures. There are 10 measures in total, and they reflect a number of quality-of-care areas, such as skin integrity, major falls, medication reconciliation, and Transfer of Health information.

Additionally, MedPAC is tasked with reporting to Congress on the payment adequacy of Medicare's FFS payment system, the Medicare Advantage program, and the Medicare prescription drug program. While their numbers reflect average IRF payer penetration, they do not represent all IRFs' payer penetration.

Comment: Some commenters were concerned about CMS' timeline for collecting data on all IRF patients. Two commenters noted that starting in FY 2025 is too soon because collection would begin one year following the implementation of the IRF–PAI version 4.0, which increases data collection by over 100 data points and begins October 1, 2022. While other commenters noted that their members already complete an IRF–PAI on all their patients, and will likely continue to do so, they point to the increased length and number of items in the IRF–PAI version 4.0. As such, these commenters requested that CMS delay expanding reporting requirements for the IRF–PAI to all patients to October 1, 2024 so that IRFs would have time to develop a clearer understanding of the time commitment for collecting the new items. These commenters noted it would give them additional time for training and development of operational policies and procedures in order to ensure compliance with QRP reporting.

Response: We interpret the comments referring to ''over 100 data points'' to be referring to the number of possible response options available for the 21 new data elements that have been added to the IRF–PAI version 4.0. While it is true that there are approximately 106 response options for these 21 new data elements, we want to note that three of the new items have a response option (''None of the above'') IRFs can select for patients who are not receiving special nutritional approaches, high-risk drug classes, and special treatments, procedures, and programs. When ''None of the above'' is selected, 46 of the items are eliminated and IRFs do not have to complete them. Additionally, we do not believe the vast majority of IRFs would have an issue meeting the reporting requirements. For example, in FY 2016, CMS added 58 new data elements with a possible 109 data points for the FY 2018 QRP, and for the FY 2018 program year, less than 2 percent of IRFs did not meet the compliance threshold for the annual increase factor (AIF).

IRFs have had exposure to many of these items since CMS first introduced them in the FY 2018 IRF proposed rule. At that time, CMS did not finalize the majority of the standardized patient assessment data element proposals in recognition of the concern raised by many commenters that we were moving too fast to adopt the data elements. Since then, 4 additional years have passed and CMS has provided a number of educational resources and training materials for IRFs to take advantage of, reducing the burden to IRFs in creating their own training resources. Additionally, CMS recognizes that the effort of having to separate out Medicare beneficiaries from other patients has clinical and work flow implications that introduce burden, and collecting data on all patients admitted would remove the burden of having to verify the patient's payer's requirements before beginning IRF–PAI collection. Data collection could begin immediately upon admission without delay. The IRF QRP Helpdesk is also available to providers and has been fielding questions about these new items since November 2021 when the revised compliance date for the IRF–PAI version 4.0 was finalized.

Additionally, CMS has several reports available to providers to monitor their compliance with the QRP reporting requirements during the year. These reports are available within iQIES to providers, including the IRF-Final Validation Report (FVR) and the Provider Threshold Report (PTR). The

IRF FVR is automatically generated in iQIES within 24 hours of the submission of a file and placed in the provider's *My Reports* folder. The FVR provides detailed information about the status of submission files, including warnings and fatal errors encountered. The PTR allows providers to monitor their compliance status regarding the required data submission for the IRF QRP measures for the current Annual Increase Factor (AIF). It is a user-requested and on-demand report, meaning that it can be pulled anytime by the IRF.

Although we disagree with the specific concerns raised by these commenters pertaining the implementation of the IRF–PAI version 4.0, we note that as part of this final rule, CMS is updating the proposed requirement for the collection of IRF–PAI assessment data on each patient receiving care in an IRF, regardless of payer, to begin with the FY 2026 IRF QRP, in order to provide additional time for IRFs to prepare for the new requirement. Consequently, IRFs will be required to collect and report IRF–PAI assessment data with respect to admission and discharge for all patients, regardless of payer, discharged on or after October 1, 2024.

Comment: Several commenters disagreed with implementing the proposal for FY 2025 because they noted the landscape for IRF providers is vastly different than in 2020 when the proposal was last made. The commenters were not specific about what is meant by a ''changing landscape,'' but we interpret this as being in reference to their later comments about how the lingering impacts of the COVID–19 pandemic, particularly with respect to nurse staffing, and they noted that they do not believe these issues will be resolved by October 1, 2023. A few commenters cited a report by the HHS Assistant Secretary for Planning and Evaluation (ASPE) finding that ''healthcare workforce shortages will continue to persist and significantly worsen by 2030.''

Response: We believe the commenters are referring to the ASPE Issue Brief (HP–2022–13, May 3, 2022), titled *Impact of the COVID–19 Pandemic on the Hospital and Outpatient Clinician Workforce*.[40] This report describes the workforce shortages tied to COVID–19 surges. However, the report also details how the pandemic-related disruptions and workforce shortages have taken place within the context of significant pre-pandemic shortages in some geographic areas, many of which have been exacerbated by the uneven and extended duration of the pandemic. The report goes on to say that shortages and maldistribution of healthcare workers were a major concern even before the pandemic. The analysis we believe the commenters are referring to was done in 2016, 4 years prior to the start of the COVID–19 pandemic.[41] While relevant, we understand that healthcare staffing has been a longstanding challenge, and may take time to resolve.

Although CMS believes it will help IRFs, physicians, and other practitioners caring for patients in IRFs better prepare for the complex and resource-intensive care needs of patients, which is an important consideration in preparing for emerging infectious diseases, we note that as part of this final rule CMS is updating the proposed requirement for the collection of IRF–PAI assessment on each patient receiving care in an IRF, regardless of payer to begin with the FY 2026 IRF QRP, in order to provide additional time for IRFs to prepare for the new requirement.

Comment: A few commenters stated that IRFs are facing increased costs to procure supplies and retain staff, and yet the data would not be included in payment updates for IRFs despite the increased resource use IRFs will have in conducting the additional data collection. One commenter stated the increased cost would be easier to absorb once the pandemic is truly endemic.

Response: We acknowledge that IRFs may continue to be impacted by the PHE and that collecting quality data on all patients regardless of payer may create additional burden for some IRFs. As noted earlier, we received several comments from providers and provider organizations stating that they are currently collecting IRF–PAI data on all patients, regardless of payer. As we described in section XI.F.2.b. of the proposed rule, reporting standardized patient assessment data elements using the IRF–PAI on all IRF patients is important now in order to better understand the impact of the PHE on our healthcare system. It will give IRFs the opportunity to analyze their quality of care across and between patient populations so that opportunities to achieve equity in healthcare outcomes might be more easily recognized, promoting provider accountability.[42] [43] The significance of the information (including, but not limited to health literacy, transportation, race, ethnicity, social isolation, high-risk medications) will assist IRFs in supporting patients as they make health decisions. Although we believe the benefit of having this information available in a standardized format outweighs the potential burden of collecting this data, we acknowledge the commenters' concerns. We note that as part of this final rule CMS is updating the proposed requirement for the collection of IRF–PAI assessment on each patient receiving care in an IRF, regardless of payer to begin with the FY 2026 IRF QRP, in order to provide additional time for IRFs to prepare for the new requirement.

Comment: One commenter opposes the proposal to collect IRF QRP information on all patients regardless of payer because they are concerned that Medicare Administrative Contractors (MACs) may inappropriately access PAI information without authority to do so. They state MACs are only allowed to access the IRF–PAI data submitted for Medicare and Medicare Advantage patients for purposes of Medicare claim reviews and IRF 60 percent rule compliance determinations. They stated that MACs have at times incorrectly reviewed IRF–PAI data for non-Medicare patients when conducting these reviews. They are concerned that even though CMS says it takes the privacy and security of PHI seriously, and that CMS systems conform to applicable Federal laws and standards to ensure information security, it does not change the fact that ''thousands'' of non-Medicare IRF patients will not be notified or able to provide consent for transmission of their sensitive personal health information to CMS. They also raise concerns about the security of that information when accessed by other agencies or researchers.

Response: CMS has not been made aware of inappropriate use of IRF–PAI data by the MACs. If an IRF is aware of inappropriate use of IRF–PAI data by MACs, we urge them to contact CMS' Privacy Office at *Privacy@cms.hhs.gov*.

We also want to point providers to the IRF–PAI guidance manual, specifically Appendix E, which includes a Privacy

[40] Office of the Assistant Secretary for Planning and Evaluation (ASPE). Impact of the COVID–19 Pandemic on the Hospital and Outpatient Clinician Workforce: Challenges and Policy Responses. Available at *https://aspe.hhs.gov/index.php/reports/covid-19-health-care-workforce*.

[41] Zhang X., Tai D., Pforsich H., Lin V.W. United States registered nurses workforce report card and shortage forecast: A revisit.

[42] *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/Downloads/CMS-Quality-Strategy.pdf*.

[43] Report to Congress: Improving Medicare Post-Acute Care Transformation (IMPACT) Act of 2014 Strategic Plan for Accessing Race and Ethnicity Data. January 5, 2017. Available at *https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Research-Reports-2017-Report-to-Congress-IMPACT-ACT-of-2014.pdf*.

Act Statement and a Data Collection Information Summary available in both English and Spanish. As explained in these documents,[44] the authority for data collection is given under section 1886(j)(2)(D) of the Act, which authorizes the Secretary to collect the data necessary to establish and administer the IRF PPS, and to help evaluate whether the IRF meets quality standards and gives appropriate healthcare to its patients. Also, as noted in these documents, the IRF–PAI must be used to assess every Medicare Part A FFS and Part C (Medicare Advantage) inpatient, and it may be used to assess other types of inpatients. These documents are intended to give patients notice of a data collection as required by section 552a(e)(3) of the Privacy Act of 1974, and serve as resources for IRF providers to provide to all patients upon admission to the IRF to notify them of their privacy rights as well as the authority for the data collection under the statute.

In response to the concern about the security of the information when accessed by other agencies or researchers, CMS has stringent policies and safeguards in place for the use of any data CMS has collected. CMS safeguards the IRF–PAI data in a data system. The system limits data access to authorized users and monitors such users to ensure against unauthorized data access or disclosures. This system conforms to all applicable Federal laws and regulations as well as Federal government, HHS, and CMS policies and standards as they relate to information security and data privacy. The applicable laws and regulations include, but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002; the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003; and the corresponding implementing regulations. Prior to receiving data under one of the routine uses specified in the System of Records Notice (SORN) (09–70–0521), each prospective recipient must agree in writing to ensure the continuing confidentiality and security of the information. Furthermore, disclosures of PHI authorized by these routine uses may be made only if, and as, permitted or required by the ''Standards for Privacy of Individually Identifiable Health Information'' (45 CFR parts 160 and 164, which are commonly referred to as the ''HIPAA Privacy Rule''). These same policies and safeguards would exist for information collected under this proposal. Additionally, we would also remind stakeholders that the CDC NHSN data are already collected on all patients regardless of payer and these data are currently safeguarded under the privacy standards previously noted.

Comment: Two commenters opposed the proposal because they believe that patients who are not on government-sponsored healthcare plans should not be required to report these data and IRFs should not be required to collect and submit them. One commenter questioned whether non-government patients will have the opportunity to opt out of reporting and if they did, what implications it would have on penalties for non-compliance. Another commenter challenged CMS statutory authority to require IRFs to submit the data, stating they believe CMS' proposal violates the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, the Privacy Act of 1974 (5 U.S.C. 552a), the privacy provisions of the E-Government Act of 2002, and potentially 35 State privacy laws that are more stringent than HIPAA and other Federal laws and which may prohibit IRFs from disclosing non-Medicare patient health information via the IRF–PAI to CMS.

Response: We appreciate the commenters' concerns but disagree that this proposal is a violation of HIPAA, the Privacy Act of 1974, and the E-Government Act of 2002. IRF–PAI data are collected under an existing SORN, 09–70–0521 (66 FR 56682). Any disclosure of the data will be made in accordance with the Privacy Act and those routine uses outlined in the SORN. Medicare patients are currently given a Privacy Act Statement and therefore one would be given to every patient under the IRF QRP. Section 208 of the E-Government Act of 2002 requires Federal agencies to perform Privacy Impact Assessments when acquiring or developing new information technology or making substantial changes to existing information technology that involves the collection, maintenance, or dissemination of information in identifiable form. Because we are not acquiring or developing new information technology, or making substantial changes to existing information technology under this proposal, we disagree that this policy violates the E-Government Act. Additionally, the IRF final rule is required for the implementation of a Federal program within CMS' authority. As such, CMS attests to compliance with all Federal laws, but is not held to State law requirements regarding this collection.

With regard to questions about how CMS would keep non-Medicare data secure, we safeguard the IRF–PAI data in a secure data system. The system limits data access to authorized users and monitors such users to ensure against unauthorized data access or disclosures. This system conforms to all applicable Federal laws and regulations, as well as Federal government, HHS, and CMS policies and standards as they relate to information security and data privacy. The applicable laws and regulations include, but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002; the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003; and the corresponding implementing regulations. With regard to the scope of data collection, IRFs would be required to submit quality measure and standardized patient assessment data elements required by the IRF QRP.

We believe that the maturation of the IRF QRP and the modernized use of the IRF–PAI instrument by IRFs argue for the collection of IRF–PAI data on all patients, regardless of payer. Specifically, we believe there is a rationale and agency precedent (in the other reporting programs, such as LTCH, Hospice, and MIPS) for moving forward with the collection of assessment data for the purposes of the IRF QRP. It will improve the IRF QRP's ability to assess IRF quality and allow the IRF to foster better-quality care for patients regardless of the payer source. It will also support CMS' ability to compare standardized outcome measures across PAC settings.

Final Decision: After considering the public comments received, for the reasons discussed above and in the FY 2023 IRF PPS proposed rule (87 FR 20254), we are finalizing our proposal to begin collection of IRF–PAI assessment on each patient receiving care in an IRF, regardless of payer. In the proposed rule, we proposed that this collection would begin with the FY 2025 IRF QRP, meaning that IRFs would be required to report these data with respect to admission and discharge of all patients, regardless of payer, discharged between October 1, 2023 and December 31, 2023. However, upon consideration of the

[44] The CMS IRF–PAI Manual Version 4.0 Effective 10–1–2022 can be found on the IRF–PAI and IRF QRP Manual website and downloaded here: *https://www.cms.gov/files/zip/cms-irf-pai-manual-version-40-effective-october-1-2022.zip.*

public comments received on this issue, and for the reasons discussed above, CMS is finalizing this policy in this final rule to begin with the FY 2026 IRF QRP in order to give IRFs more time to prepare for the new data collection. IRFs will be required to report these data with respect to admission and discharge for all patients, regardless of payer, discharged between October 1, 2024 and December 31, 2024. These data will be used (in addition to the data collected January 1, 2024 through September 30, 2024) to calculate an IRF's data completion threshold for the FY 2026 IRF QRP.

As noted in the proposed rule, we will revise the IRF–PAI in order for IRFs to submit data pursuant to the finalized policy. A new item will replace the current item identifying payment source on the IRF–PAI admission assessment to collect additional payer(s) information. The collection of this item will align with the LTCH setting. A draft IRF PAI containing this new item will be available at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/IRF-Quality-Reporting*. We will notify stakeholders when the draft IRF PAI is available.

3. Revisions to the Regulation Text To Require IRFs To Submit Patient Assessments on All Patients Beginning With the FY 2026 IRF QRP

As discussed in section XI.F.2. of the proposed rule, we proposed to require that the IRF–PAI assessment be collected on each patient receiving care in an IRF, regardless of payer. Therefore, we also proposed, subject to the aforementioned proposal becoming final, to revise the regulation text in §§ 412.604, 412.606, 412.610, 412.614, and 412.618 so that the requirements that IRFs must currently satisfy with respect to collection and submission of IRF–PAI data for Medicare Part A and Medicare Part C patients would also apply to data on all other IRF patients, regardless of payer.

In addition, we note that CMS' regulations at § 412.610(f) currently require IRFs to maintain all PAIs completed on Medicare Part A FFS patients within the previous 5 years and Medicare Part C (Medicare Advantage) patients within the previous 10 years either in a paper format in the patient's clinical record or in an electronic computer file format that the IRF can easily obtain and produce upon request to CMS or its contractors. Subject to the aforementioned all-payer proposal becoming final, we also proposed to revise the regulation text at § 410.610(f) to require that IRFs maintain PAIs completed on patients receiving care under all other payer sources (that is, other than Medicare Part A and Medicare Part C) for 5 years. We proposed a 5-year period for the same reasons we proposed a 5-year requirement for Medicare Part A patients in the original Medicare Program; Prospective Payment System for Inpatient Rehabilitation Facilities final rule that appeared in the August 7, 2001 **Federal Register** (66 FR 41329). Specifically, the assessments may be needed as part of a retrospective review conducted at the IRF for various purposes, including the fact that the completed patient assessments could be beneficial to other entities that appropriately have access to these records (for example, a State or Federal agency conducting an investigation due to a complaint of patient abuse).

The proposed revisions are outlined in §§ 412.604, 412.606, 412.610, 412.614, and 412.618 in the regulation text of the proposed rule. We invited public comments on this proposal.

We did not receive any comments on the proposed revisions to the regulation text in §§ 412.604, 412.606, 412.610, 412.614, and 412.618 so that the requirements that IRFs must currently satisfy with respect to collection and submission of IRF–PAI data for Medicare Part A and Medicare Part C patients would also apply to data on all other IRF patients, regardless of payer. Therefore, we are finalizing these revisions as proposed, with three exceptions. Specifically, we are updating the proposed regulation text at §§ 412.604(c), 412.606(a)(1), and 412.606(b)(1) to reflect that the facilities will need to start collecting the IRF–PAI assessment data for each patient receiving care in an IRF, regardless of payer, beginning on October 1, 2024, rather than October 1, 2023 as originally proposed.

4. Revisions to § 412.614(d)(2) To Correct an Error to the Regulatory Text

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the Secretary's practice to offer interested parties the opportunity to comment on proposed regulations.

However, the regulatory changes in this proposal are necessary to correct an error and do not establish any new substantive rules.

We proposed to revise the regulatory text at § 412.614(d)(2) to correct a reference to another part of the regulations. Specifically, we proposed to replace a reference to § 412.23(b)(2) with the correct reference to § 412.29(b)(1). The proposed revisions were outlined in the regulation text of the proposed rule.

We invited public comments on this proposal.

We did not receive any comments on the proposed revision to the regulatory text at § 412.614(d)(2) to correct a reference to another part of the regulations and therefore, we are finalizing the revisions as proposed. These changes will be effective with the FY 2026 IRF QRP.

G. Policies Regarding Public Display of Measure Data for the IRF QRP

We did not propose any new policies regarding the public display of measure data.

XII. Provisions of the Final Regulations

In this final rule, we are adopting the provisions set forth in the FY 2023 IRF PPS proposed rule (87 FR 20218), specifically:

- We will update the CMG relative weights and average length of stay values for FY 2022, in a budget neutral manner, as discussed in section V. of this final rule.
- We will update the IRF PPS payment rates for FY 2023 by the market basket increase factor, based upon the most current data available, with a productivity adjustment required by section 1886(j)(3)(C)(ii)(I) of the Act, as described in section VI. of this final rule.
- We will adopt a permanent cap policy in order to smooth the impact of year-to-year changes in IRF payments related to certain changes to the IRF wage index, as discussed in section VI. of this final rule.
- We will update the FY 2023 IRF PPS payment rates by the FY 2023 wage index and the labor-related share in a budget-neutral manner, as discussed in section VI. of this final rule.
- We will calculate the calculation of the IRF standard payment conversion factor for FY 2023, as discussed in section VI. of this final rule.
- We will update the outlier threshold amount for FY 2023, as discussed in section VII. of this final rule.
- We will update the cost-to-charge ratio (CCR) ceiling and urban/rural average CCRs for FY 2023, as discussed in section VII. of this final rule.
- We will codify CMS' existing teaching status adjustment policy and clarify and update the IRF teaching status adjustment policy with respect to IRF hospital closures and displaced residents, as discussed in section VIII. of this final rule.

We are also adopting updates to the IRF QRP in section XI. of this final rule as follows:

- Update data reporting requirements under the IRF QRP beginning with FY 2026.

XIII. Collection of Information Requirements

A. Statutory Requirement for Solicitation of Comments

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

This final rule refers to associated information collections that are not discussed in the regulation text contained in this document.

B. Collection of Information Requirements for Updates Related to the IRF QRP Beginning With the FY 2026 IRF QRP

An IRF that does not meet the requirements of the IRF QRP for a fiscal year will receive a 2-percentage point reduction to its otherwise applicable annual increase factor for that fiscal year.

We believe that the burden associated with the IRF QRP is the time and effort associated with complying with the requirements of the IRF QRP. In section X.F.2. of the proposed rule, we proposed to update the data reporting requirements for the IRF QRP beginning with the FY 2025 IRF QRP. We proposed to require IRFs to collect IRF–PAI assessment information on each patient receiving care in an IRF, regardless of payer. We believe the IRF–PAI items are completed by Registered Nurses (RN), Licensed Practical and Licensed Vocational Nurses (LVN), Respiratory Therapists (RT), Speech-Language Pathologists (SLP), Occupational Therapists (OT), Physical Therapists (PT), and/or Psychologists (Psy), depending on the item. We identified the staff type per item based on past IRF burden calculations in conjunction with expert opinion. Our assumptions for staff type were based on the categories generally necessary to perform an assessment. Individual providers determine the staffing resources necessary; therefore, we averaged the national average for these labor types and established a composite cost estimate. This composite estimate was calculated by weighting each salary based on the following breakdown regarding provider types most likely to collect this data: RN 50 percent; LVN 31.7 percent; RT 7 percent; SLP 6 percent; PT 2.5 percent; OT 2.5 percent; Psy 2 percent. For the purposes of calculating the costs associated with the collection of information requirements, we obtained mean hourly wages for these staff from the U.S. Bureau of Labor Statistics' May 2020 National Occupational Employment and Wage Estimates.[45] To account for overhead and fringe benefits, we have doubled the hourly wage. These amounts are detailed in Table 13.

TABLE 13: U.S. Bureau of Labor and Statistics' May 2020 National Occupational Employment and Wage Estimates

Occupation title	Occupation code	Mean Hourly Wage ($/hr)	Overhead and Fringe Benefit ($/hr)	Adjusted Hourly Wage ($/hr)
Registered Nurse (RN)	29-1141	$38.47	$38.47	$76.94
Licensed Vocational Nurse (LVN)	29-2061	$24.08	$24.08	$48.16
Respiratory Therapist (RT)	29-1126	$31.56	$31.56	$63.12
Speech Language Pathologist (SLP)	29-1127	$40.02	$40.02	$80.04
Physical Therapist (PT)	29-1123	$44.08	$44.08	$88.16
Occupational Therapist (OT)	29-1122	$42.06	$42.06	$84.12
Psychologist (Psy)	19-3030	$43.61	$43.61	$87.22

As a result of the proposal, the estimated burden and cost for IRFs for complying with requirements of the FY 2026 IRF QRP will increase. Specifically, we believe that there will be a 1.8 hours addition in clinical staff time to report data for each additional IRF–PAI completed. We estimated the collection of an additional 263,988 IRF–PAIs from 1,115 IRFs annually. This equated to an increase of 475,178 hours in burden for all IRFs (1.8 hours × 263,988 discharges). Given the clinician times estimated in the previous paragraph and the wages in Table 13, we calculated a blended hourly rate of $66.82. We estimated that each IRF will complete an average of 237 additional IRF–PAIs per year, the total cost related to the additional reporting requirements is estimated at $28,505.41 per IRF annually [(237 assessment × 1.8 hours) × $66.82], or $31,783,532.15 for all IRFs annually ($28.505.41 × 1,115). The increase in burden will be accounted for in a revised information collection request under OMB control number

[45] *https://www.bls.gov/oes/current/oes_nat.htm.*

(0938–0842). The required 60-day and 30-day notices will publish in the **Federal Register** and the comment periods will be separate from those associated with this rulemaking. A 60-day **Federal Register** notice was published on February 3, 2022 (87 FR 6175) to extend the information collection request (ICR). The 60-day comment period for the extension ended April 4, 2022. The 30-day **Federal Register** notices published on April 12, 2022 (87 FR 21661) and the ICR is pending at OMB. The revision ICR will be submitted at the conclusion of the extension process.

As described in section X.F.2.c. of the proposed rule, a new item would replace Item 20 on the IRF–PAI V4.0. However, since this item is replacing another item already accounted for in the PRA, we do not believe this would add any additional burden to the estimate described above.

We invited public comments on these potential information collection requirements. We responded to these comments in section XI.F.2. of this final rule. However, for the reasons discussed in section XI.F.2., CMS is finalizing this policy to begin with the FY 2026 IRF QRP in order to give IRFs more time to prepare for the new data collection. IRFs will be required to report these data with respect to admission and discharge for all patients, regardless of payer, discharged between October 1, 2024 and December 31, 2024. These data will be used (in addition to the data collected January 1, 2024 through September 30, 2024) to calculate an IRF's data completion threshold for the FY 2026 IRF QRP.

XIV. Regulatory Impact Analysis

A. Statement of Need

This final rule updates the IRF prospective payment rates for FY 2023 as required under section 1886(j)(3)(C) of the Act and in accordance with section 1886(j)(5) of the Act, which requires the Secretary to publish in the **Federal Register** on or before August 1 before each FY, the classification and weighting factors for CMGs used under the IRF PPS for such FY and a description of the methodology and data used in computing the prospective payment rates under the IRF PPS for that FY. This final rule also implements section 1886(j)(3)(C) of the Act, which requires the Secretary to apply a productivity adjustment to the market basket increase factor for FY 2012 and subsequent years.

Furthermore, this final rule also adopts policy changes under the statutory discretion afforded to the Secretary under section 1886(j) of the Act. We are also finalizing updates to the data reporting requirements for the IRF QRP and corresponding amendments to the regulations consistent with these requirements. In addition, we are also finalizing an amendment to correct an error in the regulations text at § 412.614(d)(2).

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Section (6)(a) of Executive Order 12866 provides that a regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We estimate the total impact of the policy updates described in this final rule by comparing the estimated payments in FY 2023 with those in FY 2022. This analysis results in an estimated $275 million increase for FY 2023 IRF PPS payments. Additionally, we estimate that costs associated with updating the reporting requirements under the IRF QRP result in an estimated $31,783,532.15 additional cost in FY 2026 for IRFs. Based on our estimates OMB's Office of Information and Regulatory Affairs has determined that this rulemaking is ''economically significant'' as measured by the $100 million threshold. Also, the rule has been reviewed by OMB. Accordingly, we have prepared an RIA that, to the best of our ability, presents the costs and benefits of the rulemaking.

C. Anticipated Effects

1. Effects on IRFs

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most IRFs and most other providers and suppliers are small entities, either by having revenues of $8.0 million to $41.5 million or less in any 1 year depending on industry classification, or by being nonprofit organizations that are not dominant in their markets. (For details, see the Small Business Administration's final rule that set forth size standards for health care industries, at 65 FR 69432 at *https://www.sba.gov/sites/default/files/2019-08/SBA%20Table%20of%20Size%20Standards_Effective%20Aug%2019%2C%202019_Rev.pdf,* effective January 1, 2017 and updated on August 19, 2019.) Because we lack data on individual hospital receipts, we cannot determine the number of small proprietary IRFs or the proportion of IRFs' revenue that is derived from Medicare payments. Therefore, we assume that all IRFs (an approximate total of 1,118 IRFs, of which approximately 52 percent are nonprofit facilities) are considered small entities and that Medicare payment constitutes the majority of their revenues. HHS generally uses a revenue impact of 3 to 5 percent as a significance threshold under the RFA. As shown in Table 14, we estimate that the net revenue impact of the final rule on all IRFs is to increase estimated payments by approximately 3.2 percent. The rates and policies set forth in this final rule will not have a significant impact (not greater than 4 percent) on a substantial number of small entities. The estimated impact on small entities is shown in Table 14. MACs are not considered to be

small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. As shown in Table 14, we estimate that the net revenue impact of this final rule on rural IRFs is to increase estimated payments by approximately 3.1 percent based on the data of the 134 rural units and 12 rural hospitals in our database of 1,118 IRFs for which data were available. We estimate an overall impact for rural IRFs in all areas between 0.5 percent and 4.0 percent. As a result, we anticipate that this final rule will not have a significant impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–04, enacted on March 22, 1995) (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2022, that threshold is approximately $165 million. This final rule does not mandate any requirements for State, local, or tribal governments, or for the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. As stated, this final rule will not have a substantial effect on State and local governments, preempt State law, or otherwise have a federalism implication.

2. Detailed Economic Analysis

This final rule will update the IRF PPS rates contained in the FY 2022 IRF PPS final rule (86 FR 42362). Specifically, this final rule will update the CMG relative weights and ALOS values, the wage index, and the outlier threshold for high-cost cases. This final rule will apply a productivity adjustment to the FY 2023 IRF market basket increase factor in accordance with section 1886(j)(3)(C)(ii)(I) of the Act. Further, this final rule codifies CMS' existing teaching status adjustment policy through proposed amendments to the regulation text and updates and clarifies the IRF teaching policy with respect to IRF hospital closures and displaced residents. Additionally, this final rule will establish a permanent cap policy to smooth the impact of year-to-year changes in IRF payments related to decreases in the IRF wage index.

We estimate that the impact of the changes and updates described in this final rule would be a net estimated increase of $275 million in payments to IRF providers. The impact analysis in Table 14 of this final rule represents the projected effects of the updates to IRF PPS payments for FY 2023 compared with the estimated IRF PPS payments in FY 2022. We determine the effects by estimating payments while holding all other payment variables constant. We use the best data available, but we do not attempt to predict behavioral responses to these changes, and we do not make adjustments for future changes in such variables as number of discharges or case-mix.

We note that certain events may combine to limit the scope or accuracy of our impact analysis, because such an analysis is future-oriented and, thus, susceptible to forecasting errors because of other changes in the forecasted impact time period. Some examples could be legislative changes made by the Congress to the Medicare program that would impact program funding, or changes specifically related to IRFs. Although some of these changes may not necessarily be specific to the IRF PPS, the nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon IRFs.

In updating the rates for FY 2023, we are implementing the standard annual revisions described in this final rule (for example, the update to the wage index and market basket increase factor used to adjust the Federal rates). We are also reducing the FY 2023 IRF market basket increase factor by a productivity adjustment in accordance with section 1886(j)(3)(C)(ii)(I) of the Act. We estimate the total increase in payments to IRFs in FY 2023, relative to FY 2022, would be approximately $275 million.

This estimate is derived from the application of the FY 2023 IRF market basket increase factor, as reduced by a productivity adjustment in accordance with section 1886(j)(3)(C)(ii)(I) of the Act, which yields an estimated increase in aggregate payments to IRFs of $330 million. However, there is an estimated $55 million decrease in aggregate payments to IRFs due to the proposed update to the outlier threshold amount. Therefore, we estimate that these updates would result in a net increase in estimated payments of $275 million from FY 2022 to FY 2023.

The effects of the updates that impact IRF PPS payment rates are shown in Table 14. The following updates that affect the IRF PPS payment rates are discussed separately below:

- The effects of the update to the outlier threshold amount, from approximately 3.6 percent to 3.0 percent of total estimated payments for FY 2023, consistent with section 1886(j)(4) of the Act.
- The effects of the annual market basket update (using the IRF market basket) to IRF PPS payment rates, as required by sections 1886(j)(3)(A)(i) and (j)(3)(C) of the Act, including a productivity adjustment in accordance with section 1886(j)(3)(C)(ii)(I) of the Act.
- The effects of applying the budget-neutral labor-related share and wage index adjustment, as required under section 1886(j)(6) of the Act.
- The effects of applying the budget-neutral permanent cap on wage index decreases policy.
- The effects of the budget-neutral changes to the CMG relative weights and ALOS values under the authority of section 1886(j)(2)(C)(i) of the Act.
- The total change in estimated payments based on the FY 2023 payment changes relative to the estimated FY 2022 payments.

3. Description of Table 14

Table 14 shows the overall impact on the 1,118 IRFs included in the analysis.

The next 12 rows of Table 14 contain IRFs categorized according to their geographic location, designation as either a freestanding hospital or a unit of a hospital, and by type of ownership; all urban, which is further divided into urban units of a hospital, urban freestanding hospitals, and by type of ownership; and all rural, which is further divided into rural units of a hospital, rural freestanding hospitals, and by type of ownership. There are 972 IRFs located in urban areas included in our analysis. Among these, there are 654 IRF units of hospitals located in urban areas and 318 freestanding IRF hospitals located in urban areas. There are 146 IRFs located in rural areas included in our analysis. Among these, there are 134 IRF units of hospitals located in rural areas and 12 freestanding IRF hospitals located in rural areas. There are 434 for-profit IRFs. Among these, there are 399 IRFs in urban areas and 35 IRFs in rural areas. There are 577 non-profit IRFs. Among these, there are 487 urban IRFs

and 90 rural IRFs. There are 107 government-owned IRFs. Among these, there are 86 urban IRFs and 21 rural IRFs.

The remaining four parts of Table 14 show IRFs grouped by their geographic location within a region, by teaching status, and by DSH patient percentage (PP). First, IRFs located in urban areas are categorized for their location within a particular one of the nine Census geographic regions. Second, IRFs located in rural areas are categorized for their location within a particular one of the nine Census geographic regions. In some cases, especially for rural IRFs located in the New England, Mountain, and Pacific regions, the number of IRFs represented is small. IRFs are then grouped by teaching status, including non-teaching IRFs, IRFs with an intern and resident to average daily census (ADC) ratio less than 10 percent, IRFs with an intern and resident to ADC ratio greater than or equal to 10 percent and less than or equal to 19 percent, and IRFs with an intern and resident to ADC ratio greater than 19 percent. Finally, IRFs are grouped by DSH PP, including IRFs with zero DSH PP, IRFs with a DSH PP less than 5 percent, IRFs with a DSH PP between 5 and less than 10 percent, IRFs with a DSH PP between 10 and 20 percent, and IRFs with a DSH PP greater than 20 percent.

The estimated impacts of each policy described in this rule to the facility categories listed are shown in the columns of Table 14. The description of each column is as follows:

- Column (1) shows the facility classification categories.
- Column (2) shows the number of IRFs in each category in our FY 2023 analysis file.
- Column (3) shows the number of cases in each category in our FY 2023 analysis file.
- Column (4) shows the estimated effect of the adjustment to the outlier threshold amount.
- Column (5) shows the estimated effect of the update to the IRF labor-related share and wage index, in a budget-neutral manner.
- Column (6) shows the estimated effect of the permanent cap on wage index decreases policy, in a budget-neutral manner.
- Column (7) shows the estimated effect of the update to the CMG relative weights and ALOS values, in a budget-neutral manner.
- Column (8) compares our estimates of the payments per discharge, incorporating all of the policies reflected in this final rule for FY 2023 to our estimates of payments per discharge in FY 2022.

The average estimated increase for all IRFs is approximately 3.2 percent. This estimated net increase includes the effects of the IRF market basket increase factor for FY 2023 of 3.9 percent, which is based on a IRF market basket update of 4.2 percent, less a 0.3 percentage point productivity adjustment, as required by section 1886(j)(3)(C)(ii)(I) of the Act. It also includes the approximate 0.6 percent overall decrease in estimated IRF outlier payments from the update to the outlier threshold amount. Since we are making the updates to the IRF wage index, labor-related share and the CMG relative weights in a budget-neutral manner, they will not be expected to affect total estimated IRF payments in the aggregate. However, as described in more detail in each section, they will be expected to affect the estimated distribution of payments among providers.

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TABLE 14: IRF Impact Table for FY 2023 (Columns 4 through 8 in percentage)

Facility Classification	Number of IRFs	Number of Cases	Outlier	FY 2023 Wage Index and Labor-Related Share	Permanent Wage Index Decreases Cap	CMG Weights	Total Percent Change [1]
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Total	1,118	381,561	-0.6	0.0	0.0	0.0	3.2
Urban unit	654	144,567	-1.1	0.0	0.0	-0.2	2.6
Rural unit	134	17,810	-0.9	0.0	0.0	-0.1	2.9
Urban hospital	318	213,991	-0.3	0.0	0.0	0.1	3.7
Rural hospital	12	5,193	-0.2	-0.1	0.0	0.1	3.7
Urban For-Profit	399	207,219	-0.3	0.0	0.0	0.1	3.7
Rural For-Profit	35	8,074	-0.3	0.0	0.0	0.1	3.7
Urban Non-Profit	487	132,031	-1.0	0.0	0.0	-0.1	2.7
Rural Non-Profit	90	12,472	-0.9	-0.1	0.0	-0.1	2.7
Urban Government	86	19,308	-1.3	-0.1	0.0	-0.2	2.3
Rural Government	21	2,457	-0.8	-0.1	0.0	-0.1	2.9
Urban	972	358,558	-0.6	0.0	0.0	0.0	3.2
Rural	146	23,003	-0.7	-0.1	0.0	0.0	3.1
Urban by region							
Urban New England	29	13,616	-0.4	-1.1	0.0	-0.1	2.2
Urban Middle Atlantic	121	41,784	-0.9	0.3	0.0	0.0	3.3
Urban South Atlantic	160	76,008	-0.5	-0.3	0.0	0.0	3.0
Urban East North Central	158	44,682	-0.7	-0.3	0.0	-0.1	2.9
Urban East South Central	55	25,316	-0.2	-0.1	0.0	0.0	3.6
Urban West North Central	76	21,760	-0.6	-0.4	0.0	-0.2	2.7
Urban West South Central	197	83,252	-0.4	0.4	0.0	0.2	4.1
Urban Mountain	79	27,681	-0.5	0.3	0.0	-0.1	3.6
Urban Pacific	97	24,459	-1.5	0.4	0.0	-0.2	2.6
Rural by region							
Rural New England	5	1,119	-0.8	1.1	0.0	-0.2	4.0
Rural Middle Atlantic	10	931	-0.8	-0.3	0.0	0.0	2.7
Rural South Atlantic	16	4,023	-0.3	-0.7	0.0	0.1	2.9
Rural East North Central	23	3,397	-0.6	-0.8	0.0	-0.1	2.3
Rural East South Central	20	3,640	-0.5	-0.1	0.0	-0.1	3.2
Rural West North Central	20	2,599	-1.2	0.1	0.0	-0.1	2.8
Rural West South Central	42	6,533	-0.7	0.6	0.0	0.1	3.8
Rural Mountain	7	438	-1.6	-0.7	0.2	-0.1	1.6
Rural Pacific	3	323	-2.5	-0.5	0.0	-0.3	0.5
Teaching status							
Non-teaching	1,015	336,600	-0.6	0.0	0.0	0.0	3.3
Resident to ADC less than 10%	58	32,033	-0.7	0.1	0.0	-0.1	3.2
Resident to ADC 10%-19%	36	11,929	-1.3	0.1	0.0	-0.3	2.4
Resident to ADC greater than 19%	9	999	-1.2	0.6	0.0	-0.1	3.3
Disproportionate share patient percentage (DSH PP)							
DSH PP = 0%	51	6,477	-0.6	-0.2	0.0	0.0	3.0
DSH PP <5%	135	54,839	-0.7	-0.1	0.0	0.1	3.2
DSH PP 5%-10%	250	99,408	-0.4	0.0	0.0	0.1	3.5

Facility Classification	Number of IRFs	Number of Cases	Outlier	FY 2023 Wage Index and Labor-Related Share	Permanent Wage Index Decreases Cap	CMG Weights	Total Percent Change [1]
DSH PP 10%-20%	392	144,541	-0.6	0.0	0.0	0.0	3.3
DSH PP greater than 20%	290	76,296	-0.9	0.0	0.0	-0.1	2.8

[1]This column includes the impact of the updates in columns (4), (5), (6) and (7) above, and of the IRF market basket update for FY 2023 of 4.2 percent, reduced by 0.3 percentage point for the productivity adjustment as required by section 1886(j)(3)(C)(ii)(I) of the Act. Note, the products of these impacts may be different from the percentage changes shown here due to rounding effects.

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4. Impact of the Update to the Outlier Threshold Amount

The estimated effects of the update to the outlier threshold adjustment are presented in column 4 of Table 14.

For the FY 2023 proposed rule, we used preliminary FY 2021 IRF claims data and, based on that preliminary analysis, we estimated that IRF outlier payments as a percentage of total estimated IRF payments would be 3.8 percent in FY 2022. As we typically do between the proposed and final rules each year, we updated our FY 2021 IRF claims data to ensure that we are using the most recent available data in setting IRF payments. Therefore, based on an updated analysis of the most recent IRF claims data for this final rule, we estimate that IRF outlier payments as a percentage of total estimated IRF payments are 3.6 percent in FY 2022. Thus, we are adjusting the outlier threshold amount in this final rule to maintain total estimated outlier payments equal to 3 percent of total estimated payments in FY 2023. The estimated change in total IRF payments for FY 2023, therefore, includes an approximate 0.6 percentage point decrease in payments because the estimated outlier portion of total payments is estimated to decrease from approximately 3.6 percent to 3.0 percent.

The impact of this outlier adjustment update (as shown in column 4 of Table 14) is to decrease estimated overall payments to IRFs by 0.6 percentage point.

5. Impact of the Wage Index and Labor-Related Share

In column 5 of Table 14, we present the effects of the budget-neutral update of the wage index and labor-related share. The changes to the wage index and the labor-related share are discussed together because the wage index is applied to the labor-related share portion of payments, so the changes in the two have a combined effect on payments to providers. As discussed in section VI.C. of this final rule, the FY 2023 labor-related share is 72.9 percent, which is the same as the labor-related share for FY 2022. In aggregate, we do not estimate that these updates will affect overall estimated payments to IRFs. However, we do expect these updates to have small distributional effects. We estimate the largest decrease in payment from the update to the CBSA wage index and labor-related share to be a 1.1 percent decrease for IRFs in the Urban New England region and the largest increase in payment to be a 1.1 percent increase for IRFs in the Rural New England Region.

6. Impact of the Wage Index Policy

In column 6 of Table 14, we present the effects of the budget-neutral permanent cap on wage index decreases policy. As discussed in section VI.D.3 of this final rule, we are applying a permanent 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year to smooth the impact of year-to-year changes in IRF payments related to changes in the IRF wage index. We are required by section 1886(j)(6) of the Act to implement changes to the wage index in a budget-neutral manner. Thus, there will not be an impact on aggregate Medicare payments to IRFs.

7. Impact of the Update to the CMG Relative Weights and ALOS Values.

In column 7 of Table 14, we present the effects of the budget-neutral update of the CMG relative weights and ALOS values. In the aggregate, we do not estimate that these updates will affect overall estimated payments of IRFs. However, we do expect these updates to have small distributional effects, with the largest effect begin a decrease in payments of 0.3 percent to IRFs in the Rural Pacific region.

8. Effects of Codification and Clarifications of IRF Teaching Status Adjustment Policy

As discussed in section VIII. of this final rule, we are codifying the longstanding teaching status adjustment policy through the amendments to the regulation text at § 412.602 and § 412.624(e)(4) provided in this final rule.

We do not anticipate a financial impact associated with the codification of the IRF teaching status adjustment policies. However, the clarification of certain teaching status adjustment policies and codification of these policies will enable us to align the IRF policies with recent updates to the IPPS and IPF teaching status adjustment policies. Aligning the policy guidance with other post-acute care setting regulations will also assist stakeholders in providing care for Medicare beneficiaries.

9. Effects of Requirements for the IRF QRP for FY 2026

In accordance with section1886(j)(7)(A) of the Act, the Secretary must reduce by 2 percentage points the annual market basket increase factor otherwise applicable to an IRF for a fiscal year if the IRF does not comply with the requirements of the IRF QRP for that fiscal year. In section X.A. of the proposed rule, we discuss the method for applying the 2 percentage point reduction to IRFs that fail to meet the IRF QRP requirements.

As discussed in section XI.F.2. of this final rule, we are finalizing the proposal to require the reporting of quality data on all patients discharged from the IRF beginning with the FY 2026 IRF QRP. We describe the estimated burden for the proposal in section XI.B. of the proposed rule. In summary, the changes to the IRF QRP will result in a burden

addition of $28,505.41 per IRF annually, or $31,783,532.15 for all IRFs annually beginning with the FY 2026 IRF QRP. We note, however, that this estimate may be partially offset by eliminating the effort that IRFs currently undertake to separate out Medicare beneficiaries from other patients, which is also burdensome.

D. Alternatives Considered

The following is a discussion of the alternatives considered for the IRF PPS updates contained in this final rule.

Section 1886(j)(3)(C) of the Act requires the Secretary to update the IRF PPS payment rates by an increase factor that reflects changes over time in the prices of an appropriate mix of goods and services included in the covered IRF services.

As noted previously in this final rule, section 1886(j)(3)(C) of the Act requires the Secretary to update the IRF PPS payment rates by an increase factor that reflects changes over time in the prices of an appropriate mix of goods and services included in the covered IRF services and section 1886(j)(3)(C)(ii)(I) of the Act requires the Secretary to apply a productivity adjustment to the market basket increase factor for FY 2023. There is currently no mechanism to adjust for market basket forecast error in the IRF payment update and any change to the productivity adjusted-market basket update would need to be made by a change to the statute at section 1886(j)(3)(C)(ii)(I) of the Act. Thus, in accordance with sections 1886(j)(3)(C) of the Act, we are updating the IRF prospective payments in this final rule by 3.9 percent (which equals the 4.2 percent estimated IRF market basket increase factor for FY 2023 reduced by a 0.3 percentage point productivity adjustment as determined under section 1886(b)(3)(B)(xi)(II) of the Act (as required by section 1886(j)(3)(C)(ii)(I) of the Act)).

We considered maintaining the existing CMG relative weights and average length of stay values for FY 2023. However, in light of recently available data and our desire to ensure that the CMG relative weights and average length of stay values are as reflective as possible of recent changes in IRF utilization and case mix, we believe that it is appropriate to update the CMG relative weights and average length of stay values at this time to ensure that IRF PPS payments continue to reflect as accurately as possible the current costs of care in IRFs.

We considered maintaining the existing outlier threshold amount for FY 2023. However, analysis of updated FY 2021 data indicates that estimated outlier payments would be more than 3 percent of total estimated payments for FY 2022, by approximately 0.6 percent, unless we updated the outlier threshold amount. Consequently, we are adjusting the outlier threshold amount in this final rule to reflect a 0.6 percent decrease thereby setting the total outlier payments equal to 3 percent, instead of 3.6 percent, of aggregate estimated payments in FY 2023.

We considered not amending § 412.602 and § 412.624(e)(4) to codify our longstanding guidance on the teaching status adjustment policies and update the IRF teaching policy on IRF program closures and displaced residents. However, we believe that codifying these longstanding policies into regulation text would improve clarity and reduce administrative burden on IRF providers trying to locate all relevant information regarding the teaching status adjustment. Additionally, we believe that we should streamline all teaching status adjustment policy information in the same place for ease of reference.

E. Regulatory Review Costs

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this final rule, we should estimate the cost associated with regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review the rule, we assume that the total number of unique commenters on the FY 2023 IRF PPS proposed rule will be the number of reviewers of this year's final rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this final rule. It is possible that not all commenters reviewed the FY 2023 IRF PPS proposed rule in detail, and it is also possible that some reviewers chose not to comment on the FY 2023 proposed rule. For these reasons, we thought that the number of commenters would be a fair estimate of the number of reviewers of this final rule.

We also recognize that different types of entities are in many cases affected by mutually exclusive sections of this final rule, and therefore, for the purposes of our estimate we assume that each reviewer reads approximately 50 percent of the rule.

Using the national mean hourly wage data from the May 2021 BLS for Occupational Employment Statistics (OES) for medical and health service managers (SOC 11–9111), we estimate that the cost of reviewing this rule is $115.22 per hour, including overhead and fringe benefits (*https://www.bls.gov/oes/current/oes_nat.htm*). Assuming an average reading speed, we estimate that it would take approximately 3 hours for the staff to review half of this final rule. For each reviewer of the rule, the estimated cost is $345.66 (3 hours x $115.22). Therefore, we estimate that the total cost of reviewing this regulation is $21,085.26 ($345.66 x 61 reviewers).

F. Accounting Statement and Table

As required by OMB Circular A–4 (available at *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/circulars/A4/a-4.pdf*), in Table 15 we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this final rule. Table 15 provides our best estimate of the increase in Medicare payments under the IRF PPS as a result of the updates presented in this final rule based on the data for 1,118 IRFs in our database.

TABLE 15: Accounting Statement: Classification of Estimated Expenditure

	Category	Transfers
Change in Estimated Transfers from FY 2022 IRF PPS to FY 2023 IRF PPS	Annualized Monetized Transfers	$275 million
	From Whom to Whom?	Federal Government to IRF Medicare Providers
Estimated Costs for the FY 2026 IRF QRP	Annualized monetized cost in FY 2026 for IRFs due to new quality reporting program requirements	$31,783,532.15
Estimated Costs Associated with Review Cost for FY 2023 IRF PPS	Cost associated with regulatory review cost	$21,085.26

G. Conclusion

Overall, the estimated payments per discharge for IRFs in FY 2023 are projected to increase by 3.2 percent, compared with the estimated payments in FY 2022, as reflected in column 8 of Table 14.

IRF payments per discharge are estimated to increase by 3.2 percent in urban areas and 3.1 percent in rural areas, compared with estimated FY 2022 payments. Payments per discharge to rehabilitation units are estimated to increase 2.6 percent in urban areas and 2.9 percent in rural areas. Payments per discharge to freestanding rehabilitation hospitals are estimated to increase 3.7 percent in urban areas and increase 3.7 percent in rural areas.

Overall, IRFs are estimated to experience a net increase in payments as a result of the policies in this final rule. The largest payment increase is estimated to be a 4.1 percent increase for IRFs located in the Urban West South Central region. The analysis above, together with the remainder of this preamble, provides an RIA.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by OMB.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document July 19, 2022.

List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

■ 1. The authority citation for part 412 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1395hh.

■ 2. Amend § 412.602 by adding the definitions of ''Closure of an IRF'', ''Closure of an IRF's residency training program'', and ''Displaced resident'' in alphabetical order to read as follows:

§ 412.602 Definitions.

* * * * *

Closure of an IRF has the same meaning as ''closure of a hospital'' as defined in § 413.79(h)(1)(i) as applied to an IRF meeting the requirements of § 412.604(b) for the purposes of accounting for indirect teaching costs.

Closure of an IRF's residency training program has the same meaning as ''closure of a hospital residency training program'' as defined in § 413.79(h)(1)(ii) as applied to an IRF meeting the requirements of § 412.604(b) for the purposes of accounting for indirect teaching costs.

* * * * *

Displaced resident has the same meaning as a ''displaced resident'' as defined in § 413.79(h)(1)(iii) as applied to an IRF, for purposes of accounting for indirect teaching costs.

* * * * *

■ 3. Amend § 412.604 by revising paragraph (c) to read as follows:

§ 412.604 Conditions for payment under the prospective payment system for inpatient rehabilitation facilities.

* * * * *

(c) *Completion of patient assessment instrument.* For each Medicare part A fee-for-service patient admitted to or discharged from an IRF on or after January 1, 2002, the inpatient rehabilitation facility must complete a patient assessment instrument in accordance with § 412.606. IRFs must also complete a patient assessment instrument in accordance with § 412.606 for each Medicare Part C (Medicare Advantage) patient admitted to or discharged from an IRF on or after October 1, 2009. In addition, IRFs must complete a patient assessment instrument in accordance with § 412.606 for all other patients, regardless of payer, admitted to or discharged from an IRF on or after October 1, 2024.

* * * * *

■ 4. Amend § 412.606 by revising paragraphs (a) and (b)(1) to read as follows:

§ 412.606 Patient assessments.

(a) *Patient assessment instrument.* An inpatient rehabilitation facility must use the CMS inpatient rehabilitation facility patient assessment instrument to assess Medicare Part A fee-for-service and Medicare Part C (Medicare Advantage) inpatients who are admitted on or after January 1, 2002, or were admitted before January 1, 2002, and are still inpatients as of January 1, 2002.

(1) Starting on October 1, 2024, inpatient rehabilitation facilities must use the CMS inpatient rehabilitation facility patient assessment instrument to assess all inpatients, regardless of payer, who are admitted on or after October 1, 2024, or who were admitted before October 1, 2024 and are still inpatients as of October 1, 2024.

(2) [Reserved]

(b) * * * (1) A clinician of the inpatient rehabilitation facility must perform a comprehensive, accurate, standardized, and reproducible assessment of each Medicare Part A fee-for-service inpatient using the inpatient rehabilitation facility patient assessment instrument specified in paragraph (b) of this section as part of his or her patient assessment in accordance with the schedule described in § 412.610. IRFs must also complete a patient assessment instrument in accordance with § 412.606 for each Medicare Part C (Medicare Advantage) patient admitted to or discharged from an IRF on or after October 1, 2009. In addition, IRFs must complete a patient assessment instrument in accordance with § 412.606 for all other patients, regardless of payer, admitted to or discharged from an IRF on or after October 1, 2024.

* * * * *

■ 5. Amend § 412.610 by revising paragraphs (a), (b), (c) introductory text, (c)(1)(i)(A), (c)(2)(ii)(B) and (f) to read as follows:

§ 412.610 Assessment schedule

(a) *General.* For each inpatient, an inpatient rehabilitation facility must complete a patient assessment instrument as specified in § 412.606 that covers a time period that is in accordance with the assessment schedule specified in paragraph (c) of this section.

(b) *Starting the assessment schedule day count.* The first day that the inpatient is furnished services during his or her current inpatient rehabilitation facility hospital stay is counted as day one of the patient assessment schedule.

(c) *Assessment schedules and references dates.* The inpatient rehabilitation facility must complete a patient assessment instrument upon the patient's admission and discharge as specified in paragraphs (c)(1) and (2) of this section.

(1) * * *

(i) * * *

(A) *General.* Time period is a span of time that covers calendar days 1 through 3 of the patient's current hospitalization.

* * * * *

(2) * * *

(ii) * * *

(B) The patient stops being furnished inpatient rehabilitation services.

* * * * *

(f) *Patient assessment instrument record retention.* An inpatient rehabilitation facility must maintain all patient assessment data sets completed on all Medicare Part A fee-for-service patients within the previous 5 years, on

Medicare Part C (Medicare Advantage) patients within the previous 10 years, and all other patients within the previous 5 years either in a paper format in the patient's clinical record or in an electronic computer file format that the inpatient rehabilitation facility can easily obtain and produce upon request to CMS or its contractors.

■ 6. Amend § 412.614 by—
■ a. Revising paragraphs (a) introductory text, (b)(1) and (d)(2);
■ b. Adding paragraph (d)(3); and
■ d. Revising paragraph (e).

The revisions and additions read as follows:

§ 412.614 Transmission of patient assessment data.

(a) *Data format—General rule.* The inpatient rehabilitation facility must encode and transmit data for each inpatient—

* * * * *

(b) * * *

(1) Electronically transmit complete, accurate, and encoded data from the patient assessment instrument for each inpatient to our patient data system in accordance with the data format specified in paragraph (a) of this section; and

* * * * *

(d) * * *

(2) *Medicare Part C (Medicare Advantage) data.* Failure of the inpatient rehabilitation facility to transmit all of the required patient assessment instrument data for its Medicare Part C (Medicare Advantage) patients to our patient data system in accordance with the transmission timeline in paragraph (c) of this section will result in a forfeiture of the facility's ability to have any of its Medicare Part C (Medicare Advantage) data used in the calculations for determining the facility's compliance with the regulations in § 412.29(b)(1).

(3) *All other payer data.* Failure of the inpatient rehabilitation facility to transmit all of the required patient assessment instrument data for all other patients, regardless of payer, to our patient data system in accordance with the transmission timeline in paragraph (c) of this section will result in a forfeiture of the facility's ability to have any of its other payer data used in the calculations for determining the facility's compliance with the regulations in § 412.29(b)(1).

(e) *Exemption to the consequences for transmitting the IRF–PAI data late for Medicare Part C (Medicare Advantage) patients and all other patients, regardless of payer.* CMS may waive the consequences of failure to submit complete and timely IRF–PAI data specified in paragraph (d) of this section when, due to an extraordinary situation that is beyond the control of an inpatient rehabilitation facility, the inpatient rehabilitation facility is unable to transmit the patient assessment data in accordance with paragraph (c) of this section. Only CMS can determine if a situation encountered by an inpatient rehabilitation facility is extraordinary and qualifies as a situation for waiver of the forfeiture specified in paragraphs (d)(2) or (3) of this section. An extraordinary situation may be due to, but is not limited to, fires, floods, earthquakes, or similar unusual events that inflect extensive damage to an inpatient facility. An extraordinary situation may be one that produces a data transmission problem that is beyond the control of the inpatient rehabilitation facility, as well as other situations determined by CMS to be beyond the control of the inpatient rehabilitation facility. An extraordinary situation must be fully documented by the inpatient rehabilitation facility.

■ 7. Amend § 412.618 by revising the introductory text to read as follows:

§ 412.618 Assessment process for interrupted stays.

For purposes of the patient assessment process, if any patient has an interrupted stay, as defined under § 412.602, the following applies:

* * * * *

■ 8. Amend § 412.624 by revising paragraphs (e)(1) and (4) to read as follows:

§ 412.624 Methodology for calculating the Federal prospective payment rates.

* * * * *

(e) * * *

(1) *Adjustment for area wage levels.* The labor portion of a facility's Federal prospective payment is adjusted to account for geographical differences in the area wage levels using an appropriate wage index.

(i) The application of the wage index is made on the basis of the location of the facility in an urban or rural area as defined in § 412.602.

(ii) Starting on October 1, 2022, CMS applies a cap on decreases to the wage index such that the wage index applied to an IRF is not less than 95 percent of the wage index applied to that IRF in the prior FY.

(iii) Adjustments or updates to the wage data used to adjust a facility's Federal prospective payment rate under paragraph (e)(1) of this section will be made in a budget neutral manner. CMS determines a budget neutral wage adjustment factor, based on any adjustment or update to the wage data, to apply to the standard payment conversion factor.

* * * * *

(4) *Adjustments for teaching hospitals.* (i) *General.* For discharges on or after October 1, 2005, CMS adjusts the Federal prospective payment on a facility basis by a factor as specified by CMS for facilities that are teaching institutions or units of teaching institutions.

(A) An IRF's teaching adjustment is based on the ratio of the number of full-time equivalent residents training in the IRF divided by the facility's average daily census.

(B) As described in § 412.105(f)(1)(iii)(A), residents with less than full-time status are counted as partial full time equivalent based on the proportion of time assigned to the inpatient rehabilitation facility compared to the total time necessary to fill a residency slot. Residents rotating to more than one hospital or non-hospital setting will be counted in proportion to the time they are assigned to inpatient rehabilitation facility compared to the total time worked in all locations. An inpatient rehabilitation facility cannot claim time spent by the resident at another inpatient rehabilitation facility or hospital.

(C) Except as described in paragraph (e)(4)(i)(D) of this section, the actual number of current year full-time equivalent residents used in calculating the teaching adjustment is limited to the number of full-time equivalent residents in the IRF's final settled cost report for the most recent cost reporting period ending on or before November 15, 2004 (base year).

(D) If the inpatient rehabilitation facility first begins training residents in a new approved graduate medical education program after November 15, 2004, the number of full-time equivalent residents determined under paragraph (e)(4)(i)(C) of this section may be adjusted using the method described in § 413.79(e)(1)(i).

(E) The teaching adjustment is made on a claim basis as an interim payment, and the final payment in full for the claim is made during the final settlement of the cost report.

(ii) *Closure of an IRF or IRF residency training program.* (A) *Closure of an IRF.* For cost reporting periods beginning on or after October 1, 2011, an IRF may receive a temporary adjustment to its FTE cap to reflect displaced residents added because of another IRFs closure if the IRF meets the following criteria:

(*1*) The IRF is training additional displaced residents from an IRF that closed on or after October 1, 2011.

(*2*) No later than 60 days after the IRF begins to train the displaced residents, the IRF submits a request to its Medicare contractor for a temporary adjustment by identifying the displaced residents who have come from the closed IRF and have caused the IRF to exceed its cap, and specifies the length of time the adjustment is needed.

(B) *Closure of an IRF's residency training program.* If an IRF that closes its residency training program on or after October 1, 2011, agrees to temporarily reduce its FTE cap according to the criteria specified in paragraph (e)(4)(ii)(A)(*2)* of this section, another IRF(s) may receive a temporary adjustment to its FTE cap to reflect displaced residents added because of the closure of the residency training program if the criteria specified in paragraph (e)(4)(ii)(A)(*1*) of this section are met.

(*1*) *Receiving IRF(s).* For cost reporting periods beginning on or after October 1, 2011, an IRF may receive a temporary adjustment to its FTE cap to reflect displaced residents added because of the closure of another IRF's residency training program if the IRF is training additional displaced residents from the residency training program of an IRF that closed a program; and if no later than 60 days after the IRF begins to train the displaced residents the IRF submits to its Medicare Contractor a request for a temporary adjustment to its FTE cap, documents that it is eligible for this temporary adjustment by identifying the displaced residents who have come from another IRF's closed program and have caused the IRF to exceed its cap, specifies the length of time the adjustment is needed, and submits to its Medicare Contractor a copy of the FTE reduction statement by the hospital that closed its program, as specified in paragraph (e)(4)(ii)(A)(*2*) of this section.

(*2*) *IRF that closed its program.* An IRF that agrees to train displaced residents who have been displaced by the closure of another IRF's program may receive a temporary FTE cap adjustment only if the hospital with the closed program temporarily reduces its FTE cap based on the FTE of displaced residents in each program year training in the program at the time of the programs closure. This yearly reduction in the FTE cap will be determined based on the number of those displaced residents who would have been training in the program during that year had the program not closed. No later than 60 days after the displaced residents who were in the hospital that closed its program(s) begin training at another hospital must submit to its Medicare Contractor a statement signed and dated by its representative that specifies that it agrees to the temporary reduction in its FTE cap to allow the IRF training the displaced residents to obtain a temporary adjustment to its cap; identifies the displaced residents who were in the training at the time of the program's closure; identifies the IRFs to which the displaced residents are transferring once the program closes; and specifies the reduction for the applicable program years.

* * * * *

Dated: July 25, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–16225 Filed 7–27–22; 4:15 pm]

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A new table will be published in the first issue of each month.

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